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INTEREST EQUALIZATION TAX EXTENSION ACT OF 1965

AUGUST 17, 1965.—Ordered to be printed

Mr. LONG of Louisiana, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 4750]

The Committee on Finance, to which was referred the bill (H.R. 4750) to provide an extension of the interest equalization tax, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

I. SUMMARY

H.R. 4750, as reported by your committee, extends the interest equalization tax from December 31, 1965, to December 31, 1967, or for 2 years beyond its present termination date. The House bill would have extended the tax for a period of 1 year and 7 months, or until July 31, 1967. Thus, this tax, which is designed to aid our balance-of-payments position, will be in effect for a further temporary period. This tax raises the cost to foreigners of obtaining capital in the U.S. capital market to a level more closely alined with the costs prevailing in capital markets of the other industrialized countries. The present act accomplishes this objective by imposing a tax resulting in an additional annual cost, ultimately borne by the foreign issuers or security holders, equal to approximately a 1-percent rise in interest costs. The tax was first imposed for the period July 19, 1963 (August 17, 1963, for listed securities), through December 31, 1965.

The interest equalization tax as initially enacted authorized the President to extend the application of the tax to bank loans of 1 year maturity or more, should he determine that the acquisition of foreign debt obligations by commercial banks materially impaired the effectiveness of the interest equalization tax, because the bank loans were being directly or indirectly substituted for other debt obligations of foreigners which were already subject to the interest equalization tax. Under the terms of Executive Order 11198, issued on February 10, 1965, the President made such a determination and extended the interest equalization tax to bank loans with a maturity of 1 or more years. Other debt obligations under the law as initially enacted were subject to tax only if they had a period to maturity of 3 years or more. Both the House and your committee's version of this bill provide that the interest equalization tax is also to apply to these other debt obligations having a period to maturity of 1 year or more. The tax rates applicable to this newly taxed category of debt obligations with a maturity of 1 to 3 years are the same as those provided for bank loans of similar maturity and range from 1.05 percent on obligations with a maturity of 1 to 1¼ years up to 2.75 percent for those with a maturity of 2¾ to 3 years.

These rates of tax will apply to obligations acquired after February 10, 1965, unless a binding commitment to acquire them existed before that date or they were acquired through a foreclosure or under certain other limited types of situations. The tax also does not apply in the case of public offerings where the debt obligation was acquired on or before April 12, 1965, if, in general, official notice of the offering had been given on or before February 10, 1965.

These provisions of the bill as amended by your committee are in accord with the recommendations of the administration.

In addition to the extension of the interest equalization tax and its application to debt obligations of 1 to 3 years' maturity, the House bill also made a series of perfecting amendments designed to meet problems which have arisen since the enactment of the tax on September 2, 1964. Some of these problems were first called to House's attention by the Treasury Department while others were called to its attention in statements submitted by affected persons. Your committee adopted the House amendments with two alterations and also added five perfecting amendments. These amendments can be summarized as follows:

A. HOUSE AMENDMENTS

1. *Export leases.*—The bill excludes from the tax obligations acquired by a U.S. person in connection with a lease of personal property to a foreigner if at least 85 percent of the amount to be paid under the lease is attributable to tangible property which was produced or extracted in this country by the U.S. person or to the performance of services (pursuant to the lease) by such a person.

2. *Construction loans.*—The bill excludes from the tax debt obligations arising out of construction loans to foreigners. The exclusion is limited to loans secured by real property located in the United States on which improvements are under construction by the foreign borrower. The exclusion is limited to those cases in which at least 25 percent of the cost of construction is paid from funds obtained from non-U.S. sources and at least 85 percent of the cost of construction (attributable to property or services) is attributable to property produced in the United States or services performed by the U.S. person.

3. *Student loans.*—The bill exempts from tax loans up to $2,500 to foreigners who are full-time students at American educational institutions.

4. *Tangible property held for personal use.*—The bill exempts from tax loans made by a U.S. person in connection with sales of tangible property located abroad which was held by the U.S. person for his personal use.

5. *Foreign branch bank acquisitions.*—The bill exempts from tax securities acquired by a branch of a U.S. corporation which is engaged in the commercial banking business in a foreign country if the following principal conditions are met. The branch must be a member of a foreign stock exchange all the members of which on June 29, 1965, were banks. The branch must also have had this same status on July 18, 1963. In addition, at the time of the acquisition of stock or debt the branch's holdings of specified securities must not exceed 3 percent of the deposits of customers (other than U.S. banks and affiliates) which are payable in the currency of the country in which the branch is located.

6. *Investments in partnerships in less-developed countries.*—The bill extends to U.S. persons making equity investments in partnerships operating in less-developed countries the same exclusion which is presently applicable in the case of purchases of stock in less-developed-country corporations.

7. *Resale of foreign stock by dealers.*—The bill extends to indirect stock resales, executed by dealers in over-the-counter transactions, the refund or credit applicable under present law in the case of indirect resales by dealers in over-the-counter bond transactions.

8. *Foreign branches of U.S. financing companies.*—The bill permits a U.S. financing corporation which operates abroad through a branch to treat the branch as a foreign corporation, thereby exempting the loans made by the branch from the interest equalization tax. For the exemption to be applicable, the branch must be primarily engaged in the trade or business of making loans or servicing debt obligations which arise out of the purchase of products produced or assembled by related corporations and the loans must be repayable exclusively in foreign currency. In addition, the branch must have been located outside the United States on February 10, 1965, and have been regularly engaged in such business for at least 12 consecutive months before that date. Your committee has made minor modifications in this provision.

9. *Foreign stock issues treated as domestic issues.*—The bill provides that, for purposes of the present exemption which excludes from the application of the tax classes of stock of foreign corporations which are predominantly owned by U.S. persons, additional shares issued are to be exempt if on July 19, 1963, the corporation had at least 250 shareholders and was actively engaged in a trade or business. The corporation must also continue to meet the American involvement tests (i.e., it must be 65-percent owned by U.S. persons or 50-percent owned by U.S. persons and have been listed on a national securities exchange which constituted the principal market for the stock in 1962). Additionally the new stock issue must be one which would qualify for exemption from the tax at the time of the initial sale because of the less-developed country corporation provision, or because of the international monetary stability exclusion, or the exclusion relating to certain reorganizations. Your committee has made minor modifications in this provision.

10. *Insurance companies.*—A technical amendment provides insurance companies at least 30 days after the date of enactment of the bill for the designation of debt of 1 to 3 years' maturity acquired since February 10, 1965, to be included in the tax-free pool relating to foreign policies.

11. *International monetary stability exemption.*—A technical amendment provides that the notices of acquisition of debt with a maturity of 1 to 3 years which were acquired during the period February 11, 1965, to the date of enactment of this bill and are eligible for the international monetary stability exemption can be filed within a period (presumably at least 30 days) after the date of enactment of this bill.

12. *Deductibility of tax payments.*—The bill provides for the deductibility for income tax purposes of an amount paid as interest equalization tax where an amount received as reimbursement of the tax is includible in gross income for the taxable year, even though the interest equalization tax was paid in an earlier year.

13. *Foreign currency deposits of foreign branch banks.*—The bill provides that in the event the President exercises his authority to make loans by foreign commercial bank branches of U.S. persons taxable to the extent they exceed 110 percent of foreign currency deposits, the branches are to be permitted to include in their tax-free loan base the foreign currency deposits received by them from any other bank other than a U.S. person engaged in the banking business or an affiliate of such a person.

14. *Tax-free acquisitions by banks from American owners.*—The bill provides that commercial banks may acquire foreign debt obligations, with a period to maturity of 1 to 3 years, from prior American owners without payment of tax.

B. FINANCE COMMITTEE AMENDMENTS

1. *Sales of foreign branches.*—A committee amendment provides an exclusion for foreign debt obligations acquired as part or all of the purchase price where substantially all the assets of a foreign branch of a U.S. business are sold.

2. *Consideration of treaty violations in connection with exclusion for international monetary stability.*—A committee amendment provides that the President in considering whether to exercise his authority under the international monetary stability provision may take into account whether the foreign country is honoring certain treaty obligations to the United States.

3. *Notice of acquisition for international monetary stability exclusion.*—A committee amendment moderates what in effect is a 100-percent penalty under the present law for failure to file a timely notice of acquisition where the acquisition is eligible for the international monetary stability exclusion. In lieu of, in effect, imposing the 100-percent penalty the bill provides a charge of 5 percent of what the tax would be for each 30-day period or any portion thereof during which the notice is delinquent, up to a maximum charge of 25 percent of the tax. The 100-percent charge will continue to apply where the exclusion is for only a limited sum (as is true in the case of Japan).

4. *Certain debt obligations of former less developed countries.*—A committee amendment provides that the interest equalization tax is not to apply to debt obligations of a foreign country if the country had previously been a less developed country and the Secretary of the State certifies to the Treasury Department that the foreign government had, on or before April 6, 1965, communicated to the State Department its intention to issue the debt obligation, had on or before that date begun negotiations with U.S. persons with a view to the

issuance of the debt obligation and the Secretary of State determines the exemption is in the best interest of the United States.

5. *Preexisting commitments.*—A committee amendment is concerned with situations to which the interest equalization tax became applicable on July 19, 1963. Present law provides that a binding commitment must have been made before that date if the tax is not to apply and that as a part of that commitment the U.S. person making the loan must have sent a commitment letter to the borrower on or before that date. Your committee's bill continues to require that all of the conditions of present law relative to a binding commitment must have been met by that date except the requirement that the U.S. person had sent a commitment letter, memorandum, etc., to the foreign person by that date. As an alternative to that requirement your committee's amendments provide that the U.S. person by that date must have received from the foreign person borrowing the funds a memorandum of terms, purchase contract or other document which sets forth the principal terms of the acquisition.

6. *Use of foreign currencies owned by the United States.*—This section requires that contracts and other agreements negotiated with foreign countries (other than agreements entered into under title I of the Agricultural Trade Development and Assistance Act of 1954 as amended, commonly known as Public Law 480), under which foreign currencies will be generated for the use of the United States, in the future must contain provisions insuring that such currencies may be used for paying U.S. obligations in such country and, if not needed for such purpose, shall be convertible into dollars or other foreign currencies. It is not required under this provision that unused foreign currencies actually be converted; the decision to convert such currencies, the amount to be converted, if any, and the manner in which the conversion is to be accomplished is to be made by the Secretary of the Treasury in light of the requirements of the United States. The Secretary will, of course, take into consideration the financial capability of the foreign country to have its currency converted.

This section also gives the Secretary of the Treasury a stronger voice in the management and use of U.S.-owned foreign currencies by requiring him to determine periodically, both in dollar amounts and in terms of foreign currency the amount of funds the United States will need to meet its foreign obligations in each country. He is also to report annually to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House on the management of U.S.-owned foreign currencies.

II. REASONS FOR THE BILL

The U.S. balance of international payments has been in a deficit position in every year but one since 1949. These persistent deficits, which have averaged $2,326 million a year during the period 1950–64 (on a regular transactions basis), have led to a significant drain on the U.S. stock of gold, which declined by $9,092 million between 1950 and 1964. The enactment of the interest equalization tax, together with other programs undertaken in recent years, for a period substantially reduced the payments deficit. The problem remains serious, however, due in large part to outflows of funds which in the past were not covered by the tax.

As indicated in table 1, the deficit in 1959 (on a regular transactions basis) was $4,178 million. The size of the deficit fell to $3,071 million by 1961, but then increased to $3,605 million in 1962. The deficit then rose to an annual rate of $4,868 million, significantly more than the 1959 rate, in the first half of 1963. In the last half of the year, however, after the announcement of the interest equalization tax, the deficit was reduced sharply to an annual rate of $1,706 million. In 1964, the deficit was $3,106 million, one of the lower annual deficits since 1957, but still higher than can be sustained without threatening the stability of the dollar. The deficit would have been substantially less—in the first three quarters of the year it was $2,073 million on an annual rate basis—were it not for a large outflow of bank loan funds in the last quarter of the year. In the first quarter of 1965—the last part of which occurred after tax was imposed on bank borrowings—the deficit on regular transactions was $2,932 million on a seasonally adjusted annual rate basis.

In the second quarter of 1965, although the precise figure is not yet available, it appears that there will be a surplus in the balance of payments. A major reason for this has been the President's application of the interest equalization tax to bank loans together with the recommendation of the administration that the tax on debt obligations generally be applied to those with a maturity of 1 year of more. Another important reason has been the success of the administration's voluntary program in the area of direct investments as well as bank loans, particularly those for periods of less than 1 year. Despite the probability of a surplus in the second quarter, however, it appears unlikely that this situation will reoccur in the subsequent quarters of this year. A number of favorable factors occurred in this second quarter which are unlikely to be repeated in subsequent quarters. For example, dock strikes in the first quarter shifted some of the export trade which would otherwise have occurred in the first quarter over to the second quarter. Secondly, under the voluntary program, corporations brought large volumes of liquid funds back to the United States in the second quarter and cannot be expected to have similar amounts available to bring back in subsequent quarters. Thirdly, banks, in an effort to comply with the voluntary program, substantially decreased their outstanding loans in the second quarter. However, now that these loans have been reduced it appears unlikely that any substantial further reduction can be expected. Fourthly, the second quarter was not affected to any appreciable degree by the unusually heavy tourist travel abroad which appears likely to affect the remainder of the year, expecially the third quarter.

TABLE 1.—*U.S. balance of payments: Balance on regular transactions and changes in U.S. gold stock for the period 1949–64, and quarterly for 1963, 1964, and 1965 to date*

[In millions of dollars; quarterly data are seasonally adjusted annual rates]

	Balance on regular transactions (– deficit)	Change in gold stock (– decrease)		Balance on regular transactions (– deficit)	Change in gold stock (– decrease)
1949	175	164	1962	–3,605	–890
1950	–3,580	–1,743	1963	–3,287	–461
1951	–305	53	1964	–3,106	–125
1952	–1,046	379	1963–I	–5,228	–111
1953	–2,152	–1,161	II	–4,508	–116
1954	–1,550	–298	III	–1,744	–196
1955	–1,145	–41	IV	–1,668	–38
1956	–935	306	1964–I	–1,668	–46
1957	520	798	II	–2,180	73
1958	–3,529	–2,275	III	–2,372	20
1959	–4,178	–1,075	IV	–6,204	–172
1960	–3,918	–1,702	1965–I	–2,932	–832
1961	–3,071	–857			

Source: U.S. Department of Commerce.

The outflow of gold in 1963 and 1964 was much less than might normally have been expected in view of the size of the balance-of-payments deficits. In 1964, the $125 million decline in the U.S. gold stock, the smallest decline since 1957, was minimal in relation to a balance-of-payments deficit of slightly over $3 billion. In 1961, when the balance-of-payments deficit was of roughly the same magnitude, the gold stock declined by $857 million, and in 1958 a deficit of $3.5 billion was associated with a gold loss of $2,275 million. In the long run, however, the U.S. gold stock cannot be protected against erosion if balance-of-payments deficits persist. This is suggested by the $832 million gold drain in the first quarter, and the $590 million in the second quarter of 1965. Efforts to reduce the gold outflow associated with such deficits, although helpful, are essentially short run palliatives in a situation in which the United States continually is running large payments deficits.

In the effort to eliminate the deficit in the U.S. balance of payments, reliance has been placed on policies focused directly on the major areas of weakness in our international accounts. The interest equalization tax is one of the key policies in meeting this objective. Other policies followed to attain this objective include a campaign to encourage exports, efforts to reduce the foreign drain of our AID programs and of our overseas military commitments, elimination of the attractiveness of foreign tax havens, and a drive to enlist the voluntary cooperation of banks and business firms in a program to cut back on the outflow of capital, including short-term bank loans, direct investments, etc.

The problem of capital outflows.—The interest equalization tax raises the cost to foreigners of obtaining capital in U.S. markets through the sale of securities. It is, therefore, addressed to a principal recent source of weaknesses in our balance-of-payments position. This is apparent in a comparison of the U.S. balance-of-payments position in 1961 with the position in 1964. The U.S. commercial trade surplus in 1964 was $0.6 billion greater than in 1961, and net earnings from U.S. private investments were $1.1 billion greater. Furthermore, net military expenditures (excluding advances on military exports) were

$0.5 billion less in 1964 than in 1961 and government grants and capital payments abroad were $0.4 billion less. Had all other elements in the balance of payments remained the same from 1961 to 1964, these factors would have reduced the balance-of-payments deficit by $2.6 billion. In this 3-year period, however, the outflow of U.S. private capital rose by $2.3 billion and the net drain due to tourism increased by $0.3 billion. As a result, there was no reduction in the balance-of-payments deficit. Moreover, were it not for the interest equalization tax, whose impact substantially reduced foreign security sales here, the deficit in 1964 would have been larger than in 1961. Details of the U.S. balance of payments in the period 1960 through the first quarter of 1965 are shown in table 2.

TABLE 2.—*U.S. balance of payments, 1960—1st quarter 1965* [1]

[In millions of dollars]

Line No.		1960	1961	1962	1963	1964	Seasonally adjusted 1964 I	1964 II	1964 III	1964 IV	1965 I
1	Commercial merchandise exports [2]	17,575	17,716	18,221	19,276	22,476	5,478	5,384	5,640	5,974	4,974
2	Commercial merchandise imports	−14,732	−14,507	−16,173	−16,992	−18,619	−4,410	−4,599	−4,709	−4,901	−4,663
3	Commercial trade balance	2,843	3,209	2,048	2,284	3,857	1,068	785	931	1,073	311
4	Commercial services, remittances, pensions (net) [2]	1,051	1,617	1,870	1,667	2,529	652	633	699	545	744
5	Commercial balance	3,894	4,826	3,918	3,951	6,386	1,720	1,418	1,630	1,618	1,055
6	Military expenditures (net) [3]	−2,712	−2,560	−2,409	−2,283	−2,053	−533	−536	−512	−472	−485
7	Government grants and capital payments abroad	−1,110	−1,139	−1,057	−833	−699	−131	−187	−183	−198	−194
8	Government debt payments excluding fundings, prepayments	543	516	501	466	454	132	143	136	43	139
9	Private long-term capital (net)	−2,107	−2,177	−2,609	−3,345	−4,037	−732	−702	−1,031	−1,572	−1,442
	(*a*) U.S. direct investment (net)	−1,674	−1,599	−1,654	−1,976	−2,376	−464	−540	−551	−821	−1,003
	(*b*) New issues of foreign securities	−555	−523	−1,076	−1,250	−1,063	−124	−183	−157	−599	−299
	(*c*) Outstanding securities and redemptions	−108	−239	107	146	386	148	78	73	87	90
	(*d*) Other long-term U.S. capital	−200	−263	−258	−591	−1,298	−298	−151	−528	−321	−475
	(*e*) Foreign long-term capital (net)	430	447	272	326	[4] 314	6	94	[4] 132	82	245
10	Short-term capital (net)	−1,438	−1,492	−752	−842	−1,996	−585	−529	−342	−540	288
11	Errors and omissions	−988	−1,045	−1,197	−401	−1,161	−288	−152	−291	−430	−94
12	Balance on regular transactions	−3,918	−3,071	−3,605	−3,287	−3,106	−417	−545	−593	−1,551	−733
13	Nonscheduled receipts on Government loans and advances on military and other exports	37	701	1,151	660	344	215	−29	2	156	65
14	Nonmarketable medium-term Government securities:										
	(*a*) Nonconvertible	----	----	251	−43	−36	−55	−8	−2	29	----
	(*b*) Convertible	----	----	----	703	375	----	122	203	50	51
15	Balance including special Government transactions excluding nonmarketable, convertible, medium-term securities	−3,881	−2,370	−2,203	−2,670	−2,798	−257	−582	−593	−1,366	−668

[1] Excluding military transfers under grants.
[2] Excluding exports and services financed by Government grants and capital.
[3] Excluding advances on military exports.
[4] Includes $204,000,000 in Canadian Government purchases of nonmarketable, medium-term U.S. Government securities.

Source: Survey of Current Business.

Private long-term capital outflows increased sharply in the period preceding the introduction of the interest equalization tax. Net private long-term capital outflows increased from $2,177 million in 1961 to $2,609 million in 1962, or by 20 percent. In the first 6 months of 1963, the outflow of private capital rose to a level, which, if sustained throughout the year, would have resulted in an annual outflow of over $4 billion, or approaching twice the 1961 outflow.

Issues of new foreign securities in U.S. capital markets accounted for much of the increase in capital outflows in 1962 and the first half of 1963. Purchases of these issues by U.S. citizens rose from $523 million in 1961 to a seasonally adjusted annual rate of $1,798 million in the first 6 months of 1963. As table 3 indicates, most of the new issues were sold by companies located in Canada, western Europe, and Japan. Relatively little of the increased outflow was directed to less-developed countries.

TABLE 3.—*New issues of foreign securities purchased by U.S. residents by area, 1962—1st quarter 1965*

[In millions of dollars; not seasonally adjusted]

	1962—year	1963		1964					1965
		1st half	2d half	Year	I	II	III	IV [1]	I [1]
Total, new issues	1,076	999	251	1,063	127	284	71	581	302
Subject to IET:									
Western Europe	195	219	53	[5] 20		4		16	
Japan	101	107	57						
Other developed countries [2]	60	17							
Subtotal (IET)	356	343	110	[5] 20		4		16	
Exempt:									
Canada	457	608	85	700	86	187	44	383	99
Latin America [3]	102	13	23	208	13	56	14	125	5
Other less-developed countries [4]	77	35	33	131	24	37	13	57	38
International institutions	84			4	4				160
Subtotal (exempt)	720	656	141	1,043	127	280	71	565	302

[1] Preliminary.
[2] Australia, New Zealand, South Africa.
[3] Includes Inter-American Development Bank.
[4] Including Finland and Portugal.
[5] City of Milan issue under 3 years, not subject to IET.

Source: Survey of Current Business.

The interest equalization tax was introduced in response to this sudden upsurge in private capital investment in foreign portfolio securities. The tax was applied to outstanding issues as well as new issues to prevent avoidance of the tax through the substitution, directly or indirectly, of new issues for outstanding issues in the hands of foreigners and the subsequent sale of outstanding issues to Americans. It also served to restrain purchases of outstanding issues.

Alternatives to the tax.—The interest equalization tax is clearly preferable to other policies which might have been adopted to restrain the outflow of private capital. For example, action by the monetary authorities to increase long-term interest rates in this country, while it would remove much of the attraction foreign borrowers now find in the U.S. capital market, would risk an increase in domestic unemployment and a slowdown in the Nation's rate of economic progress. Your committee believes that solutions to the balance-of-payments problem must be found within the framework of a vigrous, fully employed domestic economy. Such an environment will promote the productivity improvements with are so necessary to preserve the competitive standing of our exports and the attractiveness of domestic investment opportunities. Increased exports and a more favorable climate for domestic investment are, of course, essential to the longrun strength of our balance-of-payments posture.

In contrast to the use of direct controls over movements of U.S. capital, the interest equalization tax is efficient and nondiscriminatory since it leaves to the marketplace decisions as to which and what volume of foreign securities will be sold in this country. Use of the tax also preserves existing arrangements for the sale of foreign securities.

A capital issues committee, a third alternative to the interest equalization tax, would substitute the necessarily arbitrary judgment of a committee for the impartial judgments of the marketplace. The committee would undoubtedly be faced with difficulties deciding whether to permit the issuance of securities originating in different countries or from different types of businesses. It is safe to predict that, as a result, such a committee would be subjected to severe pressures and harsh criticism. Moreover, since it could not limit sales of outstanding securities, its efforts might well be in vain if new issues of foreign securities were exchanged for outstanding issues held by foreigners, and the outstanding issues were then sold to Americans.

The effect of the tax.—The introduction of the interest equalization tax, effective on July 19, 1963 (August 17, 1963, for listed securities), has been followed by a reduction in U.S. private investment in those foreign securities which came under the tax. In the three quarters following July 1963, sales of new foreign issues fell to half of the volume of such sales in the three quarters preceding the announcement of the tax. Furthermore, with the exception of issues sold in late 1963 under commitments which had been made prior to the announcement of the tax, purchases by U.S. persons of new issues originating in countries covered by the tax have been negligible, as indicated in table 4.

Purchases of outstanding securities by U.S. persons from foreign owners have also declined. Net purchases of outstanding foreign bonds by U.S. persons have been slight since the announcement of the tax while sales of foreign stocks by U.S. persons to foreigners have exceeded purchases of such stocks from foreigners, reversing the pretax pattern.

TABLE 4.—*U.S. private capital outflows*

[In millions of dollars; outflow −]

	1961	1962	1963	1964	Seasonally adjusted 1963 January-June	Seasonally adjusted 1963 July-December	Seasonally adjusted 1964 January-June	Seasonally adjusted 1964 July-December
Total private outflow	−4,180	−3,425	−4,456	−6,462	−2,632	−1,824	−2,671	−3,791
Long term	−2,624	−2,881	−3,671	−4,351	−2,240	−1,431	−1,535	−2,816
New foreign security issues	−523	−1,076	−1,250	−1,063	−899	−351	−307	−756
(of IET countries) [1]	(−161)	(−356)	(−453)	(−11)	(−310)	(−143)	(......)	(−11)
Redemptions	148	203	195	193	93	102	92	101
Transactions in foreign outstanding securities	−387	−96	−49	193	−151	102	134	59
Long-term bank claims	−136	−127	−754	−942	−194	−560	−365	−577
Other long term	−127	−131	[2] 163	[3] −356	3	[2] 160	−84	[3] −272
Direct investment	−1,599	−1,654	−1,976	−2,376	−1,092	−884	−1,004	−1,372
Short term	−1,556	−544	−785	−2,111	−392	−393	−1,137	−974
Bank claims	−1,125	−324	−781	−1,523	−302	−479	−906	−617
Other short term	−431	−220	−4	−588	−90	86	−231	−357

[1] All issues during period covered by IET (July 1963–December 1964) were exempt from tax under various provisions of the law.
[2] Reflects transfer of $150,000,000 to long-term banking credits.
[3] Includes $254,000,000 loaned to Canada in connection with Columbia River power project.

NOTE.—Subtotals may not add due to rounding.

Source: Treasury Department.

The exemption extended (by Executive order) under the provisions of the Interest Equalization Tax Act to new issues originating in Canada was required because Canada relies heavily on inflows of U.S. capital to maintain equilibrium in its balance of payments. The limited exemption recently provided (by Executive order) for Japan—when bank loans were first brought under the tax—was provided for similar reasons. The full application of the tax in these two cases might have impaired the stability of the international monetary system. These exemptions, however, have not impaired the effectiveness of the tax. The two countries have not enjoyed unlimited recourse to the U.S. capital market. In the case of Japan, the exemption is limited to the first $100 million annually of new debt issues. With respect to Canada, the Secretary of the Treasury reported that Canadian officials have indicated they do not intend to increase that country's foreign exchange reserves out of the proceeds of borrowings from the United States. The Canadians have also indicated that they are fully aware of the importance of avoiding the use of the Canadian exemption as a method of channeling American funds through Canada to other countries.

Extension of the tax required.—The interest equalization tax raises the cost to foreigners of obtaining capital in the United States to a level more nearly comparable to the levels which prevail in most other industrialized countries. In the absence of this tax, U.S. capital markets would be favored by many foreign borrowers over their own domestic capital markets and a much larger outflow of portfolio capital would resume, undermining the recent improvement in our balance-of-payments position. Foreign businessmen and foreign governmental units are aware of the efficient marketing facilities and relatively low long-term interest rates that exist in this country. European capital markets are not yet organized to supply the rapidly expanding business needs in their countries as effectively as U.S. markets. Moreover, U.S. underwriters have become familiar with foreign securities and are aware of the relatively high interest rates such securities would carry in the absence of the tax. The experience of the 1920's and 1930's no longer seriously affects appraisals of foreign securities and the restoration of currency convertibility has lessened the fear that the payment of interest and principal on foreign loans will be impeded.

The tax is an integral component of a broad program to narrow the balance-of-payments deficit. Measures taken to limit the foreign exchange costs of Federal operations abroad, the effect of increases in our trade surplus, efforts to reduce the net drain of tourist expenditures and other such programs, can only be effective as a part of a general program which attacks all troublesome areas. Efforts to restrain the outflow of U.S. private capital are a necessary part of such a general program.

The tax also has an important bearing on the program of voluntary cooperation announced by the President on February 10, 1965. The voluntary program seeks to curb credits to foreigners extended by banks and other financial institutions and to reduce nontaxable outflows of funds associated with direct foreign investments by American business firms. In the absence of the tax, many more foreign borrowers would seek to raise funds in the U.S. market, thereby greatly increasing the pressure of foreign demand which the voluntary program would be asked to withstand. Moreover, the tax, by reaching investors who cannot be reached under a voluntary program, assures participants in the latter that they will not be asked to assume a disproportionately large share of the burden of eliminating the payments deficit.

If the interest equalization tax were allowed to lapse, the success of the program now being undertaken to resore equilibrium to the balance of payments would be jeopardized. Furthermore, if the measures now being employed do not succeed, the United States might well be forced to turn to less desirable alternative methods for eliminating the deficit. For these reasons, your committee's amendments extend the interest equalization tax for 2 years, from December 31, 1965, to December 31, 1967, as the administration requested. The House bill would have provided an extension for 1 year and 7 months, or until July 31, 1967.

Bank loans.—The interest equalization tax as originally applied affected only one segment of financial transactions involving U.S. residents and foreigners. Thus, while the tax successfully curbed the outflow of funds for portfolio investment in the tax countries, the increase in types of capital outflows not covered by the tax was substantial (as shown in table 4). For example, net long-term bank loans to foreigners by U.S. banks amounted to $942 million in 1964, or nearly $200 million more than in 1963. At the same time, net short-term bank loans were $1,523 million, or nearly $750 million more than in 1963. Other net short-term capital outflows, many of which represented the temporary investment of corporate funds, amounted to nearly $600 million in 1964, as compared to almost nothing in 1963.

Finally, net direct investment abroad by U.S. companies amounted to $2,376 million in 1964, or over $400 million more than in 1963.

In the case of long-term bank loans, it became increasingly apparent during the last half of 1964 that, to a substantial extent, such loans were being substituted, directly or indirectly, for the sale of securities in the U.S. capital market. This was particularly true of continental Western Europe. Following a sharp increase in private capital outflows in the final months of 1964—including a substantial increase in long-term commercial bank loans to industrial countries (as shown in table 5)—the President, on February 10, exercised the authority granted him under the act to make the tax applicable to commercial bank loans to foreigners where the loans had a maturity of 1 year or more.

TABLE 5.—*Long-term commercial bank loan commitments to foreign countries, 1964–65 (through May)*

[In millions of dollars]

	1964		1965	
	January–June	July–December	Jan. 1–Feb. 10 [1]	Feb. 11–May [2]
Total all areas	902	1,379	788	289
Industrial countries	582	772	571	[3] 62
Western Europe	271	405	233	23
Other	313	278	337	39
Less-developed countries	320	607	217	227
Latin America	203	404	98	133
Other	117	203	120	95

[1] Date of President's balance-of-payments message to the Congress.
[2] Preliminary.
[3] Of which about $20,000,000 was exempt from tax.

NOTE.—Subtotals may not add due to rounding.

Source: Treasury Department.

Your committee agrees with the House that the action taken by the President in applying the tax to bank loans was justified. It is necessary to supplement this action, however, by applying the tax to purchases by Americans of foreign debt obligations with maturities of 1 year or more. In the absence of such a provision, the tax would discriminate against American banks as sources of 1- to 3-year term credit. Extension of the tax to these other 1- to 3-year debt obligations is also necessary to prevent widespread avoidance through the issuance of these debt obligations as a substitute for bank loans. The bill, therefore, applies the tax to purchases by Americans of foreign debt obligations with a maturity of 1 year or more. The provision thereby applies the same treatment to non-bank lenders as is now applied to bank lenders.

III. EXPLANATION OF THE BILL

1. Short title, etc. (sec. 1 of the bill)

This act is to be cited as the Interest Equalization Tax Extension Act of 1965.

2. Extension of interest equalization tax (sec. 2 of the bill and sec. 4911(d) of the code)

Under present law the interest equalization tax terminates as of December 31, 1965. Your committee's amendments have extended the application of this tax for 2 years, or until December 31, 1967. This is in accord with the recommendations of the administration and will provide ample time in 1967 to consider whether it will be possible, or not, at that time to permit the tax to expire. The House bill would have extended the tax for 1 year and 7 months, or until July 31, 1967.

3. Imposition of tax on debt obligations having maturity of 1 to 3 years (sec. 3 of the bill and sec. 4911 of the code)

Under present law, the interest equalization tax applies only to debt obligations (other than bank loans) having a period to maturity of 3 years or more. For these debt obligations, present law provides a sliding schedule of tax rates varying from 15 percent on obligations with a maturity of 28½ years or more down to 2.75 percent for those with a maturity of 3 to 3½ years. Under the authority granted the President in the initial act to apply the tax to bank loans was included the authority to impose the tax on bank loans with a period to maturity of 1 year or more. It was thought that in the case of bank loans the President might well find it desirable to apply the tax to loans for a period of 1 year or more rather than merely to those for 3 years or more because of the ease with which the longer term bank loans could be converted to shorter term periods. The President, in exercising his authority to tax bank loans, under Executive Order 11198, decided to tax those with periods to maturity of 1 year or more. At the same time, however, he recommended that Congress tax other debt obligations with periods to maturity of 1 to 3 years. This was proposed in order to equate the treatment of these obligations with that provided for bank loans under the Executive order. In addition, this was believed desirable in order to prevent avoidance of tax by shortening the term of maturity of debt obligations below the 3-year period.

For the reasons indicated above, both the House bill and the bill as amended by your committee extend the interest equalization tax to debt obligations of 1 to 3 years (not already taxed as bank loans) under the following schedule of rates:

	Percent
At least 1 year, but less than 1¼ years	1.05
At least 1¼ years, but less than 1½ years	1.30
At least 1½ years, but less than 1¾ years	1.50
At least 1¾ years, but less than 2¼ years	1.85
At least 2¼ years, but less than 2¾ years	2.30
At least 2¾ years, but less than 3 years	2.75

This is the same schedule of rates applying to bank loans.

The bill provides generally that debt obligations with a period to maturity of 1 to 3 years, initially subjected to tax by this bill, are to be taxed if acquired after February 10, 1965, the date of the announcement made by the President. However, tax is not to apply to acquisitions made after that date in the case of certain preexisting commitments, in much the same manner as under the original act. The tax is not to apply to acquisitions after that date in the case of commitments to acquire obligations which on February 10 were unconditional or were subject only to conditions contained in a formal contract under which partial performance had already occurred. Alternatively, tax is not to apply in the case of acquisitions after February 10, where before that date the U.S. person acquiring the debt had taken every action to signify approval of the acquisition under procedures ordinarily employed in these types of transactions and had sent to the foreign person written evidence of the approval in the form of a commitment letter, etc.

In the case of public offerings, the bill will not apply to debt obligations with a maturity of 1 to 3 years where the obligations were acquired on or before April 12, 1965, if certain actions signifying an intent to offer the bonds were taken on or before February 10. For the April 12 date to apply, a registration statement must have been in effect at the time the debt obligation was acquired, the registration statement must have been first filed with SEC on February 10 or within the period of 90 days before that time and no amendment can have been filed with SEC after February 10 and before the date of the acquisition increasing the amount of debt obligations covered by the registration statement.

Additionally, the new provision with respect to tax on maturities of 1 to 3 years is not to apply to debt obligations acquired as the result of a foreclosure under terms of an instrument held by the creditor on February 10, 1965.

The bill makes special provision for filing returns with respect to acquisitions made subject to tax because of the shorter maturities covered by the bill during the period commencing on February 11, 1965, and closing at the end of the calendar quarter in which the bill is enacted. For acquisitions in this period, returns are to be filed on or before the last day of the first month following the close of the calendar quarter in which the enactment of this bill occurs (or at any later time provided in regulations prescribed by the Secretary of the Treasury or his delegate).

4. Exception for export leases (sec. 4(a) of the bill and sec. 4914 (c)(6) of the code)

Present law provides a series of exclusions from the tax for stock and debt obligations of foreign issuers or obligors which are acquired in connection with export trade transactions. One of these is the exclusion for debt obligations acquired by a U.S. person from a foreign obligor in connection with a sale of tangible personal property or services to the foreigner by the American. This exclusion is designed to prevent the interest equalization tax from adversely affecting American export trade since this trade has a favorably effect on the U.S. balance of payments. In general, this exclusion is applicable if the sale, by the American, is made in the ordinary course of his trade or business, and not less than 85 percent of the purchase price is attributable to the sale of property manufactured, produced, grown or extracted in the United States or to the performance of services by the American.

Some U.S. export transactions take the form of a lease instead of a sale—the American acquiring a debt obligation from the foreign lessee as part of the transaction. The exclusion in present law for export sales does not apply to these export leases. Since an export lease may be entered into for valid business reasons as an alternative to an export sale and has the same favorable effect on the U.S. balance of payments, your committee concluded that the tax should not apply to the acquisition of foreign debt obligations in an export lease transaction.

The bill therefore provides an exclusion, paralleling the export sale exclusion, excepting from the tax foreign debt obligations acquired in an export lease transaction. Under this exception, the tax is not to apply to acquisitions by an American of debt obligations from a foreign obligor if the debt obligation arises out of a lease of personal property to the obligor by the American, and if at least 85 percent of the amount to be paid under the lease is attributable to the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States by the American, or to the performance of services (pursuant to the terms of the lease) by the American with respect to the personal property, or to both. For purposes of this provision there is no requirement that the period of the debt obligation and the period of the lease be the same.

In addition, as in the case of export sales, the bill makes applicable to the acquisition of one of these debt obligations of a foreign lessee the provisions of existing law which, in effect, make the acquisition taxable if the American transfers the obligation to another American other than a commercial bank (in the ordinary course of its commercial banking business) or other than to an agency or wholly owned instrumentality of the United States. For purposes of this provision (as well as in the case of direct acquisitions of these obligations by commercial banks) the acquisition of export-lease obligations will be considered to be in the ordinary course of a commercial bank's commercial banking business in those cases where the terms of the export-lease obligation are such that the obligation would qualify under this provision if it were an export-sale obligation.

Questions have also been raised as to the requirements (under sec. 4914(j)(1)(A)(iii)) in the case of export sale obligations which are transferred from the exporter to other U.S. persons. Under present law, these transfers may be made without payment of tax only where the acquisition of a debt obligation was reasonably necessary to accomplish the sale of property or services out of which the debt obligation arose and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the exporter is engaged. The Treasury Department has indicated to your committee that it will consider these requirements with respect to the transfer of an export sale obligation as having been met where a financial agency, or wholly owned instrumentality, of the United States has participated in the export transaction either through acquiring part of the debt obligation or through insuring or guaranteeing it if the terms provided with respect to the debt obligation transferred to the other U.S. person are no more liberal than those applicable with respect to the debt obligation transferred to, or insured or guaranteed by the Government agency or instrumentality. Commercial banks, of course, may also qualify as transferees under this provision.

The bill exempts (through the interaction of sections 4914 (b)(2)(A) and 4931(d)) from the tax the direct acquisition by a commercial bank of an export lease debt obligation if the extension of credit and the acquisition of a debt obligation by the bank are reasonably necessary to accomplish the leasing of the property or services out of which the debt obligation arises. Also, the terms of the debt obligation must not be unreasonable in the light of credit practices of the exporter's business.

These provisions are effective with respect to export lease debt obligations acquired after February 10, 1965.

5. Sales of foreign branches (sec. 4(b) of the bill and sec. 4914(g)(1)(C) of the code)

Under present law, an exclusion from interest equalization tax is provided where a U.S. shareholder acquires foreign debt obligations in connection with the sale of substantially all of the stock of a foreign-owned subsidiary, or as a result of the liquidation of a wholly owned foreign subsidiary following the sale of substantially all of its assets to a foreign person who gives the foreign debt obligation in exchange as part of the purchase price of the assets. This provision was provided in the original Interest Equalization Tax Act because sales of stock or assets of this type are favorable to our balance of payments even though temporarily, in part, offset by the acquisition of the foreign debt obligations. At the present time, no similar exclusion is provided for debt obligations acquired pursuant to the sale of the assets of a foreign branch of a U.S. business.

Your committee is of the opinion that the reasons for the exclusion in the case of the sale of a foreign subsidiary are also applicable in the case of the sale of a foreign branch. Therefore, it has added an amendment to the House bill which provides a parallel exclusion for foreign debt obligations acquired as part or all of the purchase price in the sale of substantially all the assets of a foreign branch of a U.S. business, provided none of the assets were transferred for the purpose of sale (other than sale in the ordinary course of its trade or business).

This provision applies for acquisitions made after February 10, 1965.

6. Construction loans (sec. 4(c) of the bill and sec. 4914(h) of the code)

Presently, the interest equalization tax does not apply to the acquisition of a foreign debt obligation which is part of the purchase price of real property located in the United States (or if the obligation arises out of a loan used to purchase the real property) provided the debt obligation is secured by the property purchased, the seller is a U.S. person, and 25 percent or more of the purchase price is paid to the seller by the foreign person, at the time of sale, in U.S. currency not obtained from Americans.

Although the above-described provision exempts from tax debt obligations arising in connection with the purchase of real property located in the United States, it does not exempt from tax loans made to finance construction of buildings in the United States by foreigners. Your committee agrees with the House that the reasons for the present exemption are also applicable to loans made to finance construction by foreigners in the United States.

The bill therefore provides an exemption for construction loans to foreigners where the loans obtained in the United States finance no more than 75 percent of the construction costs with at least 25 percent coming from foreign sources. Also, at least 85 percent of the cost of the construction must be attributable to property produced in the United States and to the performance of services by Americans.

The exemption also applies if the loan is used to refinance a previous construction loan (which would have qualified under this provison) if the repayment occurs within 5 years after the loan is made.

In determining whether 75 percent of the loan came from U.S. sources, construction costs which are not attributable to tangible property or services, such as interest and taxes, are to be taken into account. However, in determining whether 85 percent of the cost of the construction is attributable to property produced in the United States and the performance of service by Americans, these indirect costs are not to be taken into account (in either the numerator or the denominator). In addition, cost of construction for purposes of this provision is intended to include the cost of building materials on hand for use as well as those already used.

Questions have been raised as to whether FHA-insured loans to a U.S. corporation or partnership for construction purposes, where more than 75 percent of the construction costs is provided through the loan and minority interest in the corporation or partnership constitute taxable transactions (under sec. 4912(b)(3)) on the ground that the corporation is being availed of primarily for avoidance purposes. Your committee agrees with the House that this is not a case where the corporation or partnership is being availed of for avoidance purposes and the Treasury Department has given assurances that it also shares this view.

This provision applies to acquisitions made after February 10, 1965.

7. Student loans (sec. 4(d) of the bill and sec. 4914(b)(13) of the code)

Presently, due to the fact that the President has exercised his authority to extend the interest equalization tax to commercial bank loans with a period to maturity of 1 year or more, loans made by U.S. banks to foreign students, even though in the United States for the purpose of attending a college or university, are subject to the interest equalization tax. Furthermore, since this bill extends the application of the interest equalization tax generally to debt obligations of foreigners with a period remaining to maturity of 1 year or more, any college or university making such a loan directly to a foreign student would also be liable for the tax.

Your committee agrees with the House that loans to foreign students for educational purposes should be exempt from tax. These loans are expended in the United States and, therefore, have no adverse effect on the balance of payments. Also, this exemption can be considered an extension of the present export exemption since the schools, in effect, are "exporting" educational services to foreign students.

The bill, therefore, provides an exemption for loans made by an American to a foreign student attending an American educational institution on a full-time basis to the extent the loans do not exceed $2,500, by any one lender, in any one calendar year.

This amendment is effective with respect to acquisition of debt obligations made after February 10, 1965.

8. Tangible property held for personal use (sec. 4(e) of the bill and sec. 4914(b)(14) of the code)

Under present law, debt obligations arising from the sale of a residence, an automobile used for personal purposes, or other tangible property used for personal purposes are subject to interest equalization tax where the person making the sale and acquiring the debt is an American even though residing abroad and selling the property to a foreigner. However, the tax is unlikely to be applied to any appreciable extent in these cases since only debt obligations with 3 years or more to maturity are subject to tax. As previously explained this bill extends the tax to 1- to 3-year debt obligations and, therefore, many of these types of transactions occurring after February 10, 1965, would (in the absence of this provision) be taxable.

Your committee agrees with the House that transactions of this type should not come within the purview of the interest equalization tax. For that reason, the bill provides that debt obligations acquired by Americans in connection with the sale of tangible property located outside of the United States where the property has been held for personal use are not to be subject to the interest equalization tax.

This amendment is effective with respect to debt obligations acquired after February 10, 1965.

9. Certain foreign branch acquisitions (sec. 4(f) of the bill and sec. 4914(b)(2) of the code)

The interest equalization tax as initially enacted did not apply to loans made to foreign persons by a commercial bank in the ordinary course of its commercial banking business. However, that act authorized the President to extend the tax to commercial banks if he determined that such transactions had materially impaired the effectiveness of the tax. The President exercised a portion of this authority (Executive Order 11198) on February 10, 1965, but did not extend the tax to loans by foreign branches of commercial banks repayable exclusively in foreign currency. However, banks performing other than banking functions have been subject to the tax to this extent, from the time of its initial imposition.

In at least one country commercial banks are permitted to acquire securities in the ordinary course of their banking business as a means of investing bank funds for short periods of time (due to the absence of a short-term money market) and because under the country's banking laws it is considered a proper function of banks to effect securities transactions as brokers and dealers for their depositors and customers. At least one branch of an American corporation is engaged in such a banking business.

Your committee agrees with the House that an exemption from tax was appropriate in such a case. In part this conclusion is based on the fact that the bank, although to a limited extent dealing in securities, is performing no more than what is considered a normal banking function in the foreign country and would (except for the security transactions) be exempt from tax. In part, the view that an exemption should be available is based on the fact that all such transactions are carried on with foreign currency deposits of foreign depositors and, therefore, do not adversely affect our balance of payments.

For the reasons indicated above, the bill provides a limited exemption for stock and debt obligations acquired by a foreign banking branch of a U.S. person which do not constitute debt obligations acquired in the ordinary course of the bank's business. To qualify, the adjusted basis of such stock and debt obligation may not exceed 3 percent of the deposits of its non-U.S. bank customers which are payable in the currency of the country in which the branch is located. The provisions of the amendment also require that the branch must be a member of a foreign stock exchange all the members of which are banks (determined under the laws of the country wherein the branch is located). This must have been true both when the interest equalization tax was first effective, July 18, 1963, and when the announcement was made of this decision by the House Committee on Ways and Means, namely, June 29, 1965.

The exemption is available only in the case of stock or debt obligations acquired by a foreign branch in connection with its banking business. For this purpose, banking business is to have the same meaning as under the banking laws of the country in which the branch is located. However, the reference in the bill to stock or debt obligations which would be excluded from tax without regard to the new provision are to stock and debt obligations which would be excludable as loans made in the ordinary course of its commercial banking business.

If a branch acquires stock or debt obligations which qualify for this exemption, it may not issue certificates of American ownership if they are transferred.

This provision applies to acquisitions made after July 18, 1963.

10. Current designation by insurance companies (sec. 4(g) of the bill and sec. 4914(e)(3)(B) of the code)

Under present law, insurance companies are allowed to acquire tax-free foreign securities equal to 110 percent of reserves required for foreign insurance policies. However, generally, the foreign securities held in such a fund must have been designated by the company within 30 days of their acquisition for the tax-free status to be available. In the past, debt obligations with a maturity of less than 3 years were not designated for such a fund because in any event they were not subject to interest equalization tax. For acquisitions beginning after February 10, 1965, however, this bill provides that 1- to 3-year term debt obligations are to be subject to tax. However, these 1- to 3-year term obligations cannot properly be designated for allocation to such a fund until they become taxable. They become taxable only after this bill is enacted but then are given this status as of February 11, 1965, or long after the 30-day designation period has expired in the case of many of the acquisitions.

The bill, therefore, provides a special 30-day period for designation of these 1- to 3-year bonds acquired after February 10 and before the date of enactment of this bill. This special 30-day period begins with the date of enactment of the bill or such designation may be made at such later time as the Secretary of the Treasury or his delegate prescribes by regulations.

11. Less developed country exclusions (sec. 4(h) of the bill and sec. 4916(c)(1) of the code)

Under present law, corporations meeting certain tests are classified as "less developed country corporations." In general, these are corporations which derive 80 percent or more of their income from less developed countries and use, or hold for use, 80 percent or more of their assets in connection with the production of income in less developed countries. Investments in these less developed country corporations are not subject to the interest equalization tax.

The bill extends to U.S. purchasers of interests in partnerships which qualify as less developed country partnerships the same exclusion which is presently extended to stock investments in less developed country corporations. This is provided because your committee agrees with the House that there is no reason for distinguishing for this purpose between interests in partnerships and holdings in corporations.

This provision is effective with respect to partnerships' interests acquired after February 10, 1965.

12. Notice of acquisition for exclusion of original or new issues (sec. 4(i)(1) of the bill and sec. 4917(a) of the code)

Under present law, the interest equalization tax applies only to the acquisition of debt obligations (other than bank loans) having a period remaining to maturity of 3 or more years. Although this bill extends the tax to acquisitions after February 10, 1965, of debt obligations with a period remaining to maturity of 1 to 3 years debt obligations having this 1- to 3-year maturity period may still qualify for the exemption under the provision relating to international monetary stability. However, to be exempt under that provision, the required notice of acquisition must be filed with respect to the acquisition.

A special problem is presented for the period between February 10, 1965, and the date of enactment of this bill for Americans who acquire the 1- to 3-year term debt obligations which are eligible for exemption under the international monetary stability provision (in much the same way as in the case of designations by insurance companies with foreign policies described in No. 10 above). The application of the tax to these debt obligations will cause their acquisition to be subject to the tax in the absence of the filing of the notice of acquisition. At the same time it is impossible to file notices of exemption under the international monetary stability provision because, until the enactment of this bill, these obligations would in no event be subject to tax and therefore until the date of enactment an exemption with respect to them could not be filed under the international monetary stability provision.

The bill provides that in the case of acquisitions of debt obligations of the type described above, which will be subject to the tax after February 10, 1965, but which are excludable under the international monetary stability provision, the notice of acquisition can be filed during a period to be designated by the Secretary of the Treasury or his delegate beginning after the date of enactment of this bill. Presumably this will be at least a 30-day period.

13. Treatment of late filings of notices of acquisition for international monetary stability exclusion (sec. 4(i)(2) of the bill and sec. 4917(a) of the code)

Present law provides the President with standby authority to exclude original or new issues of stock or debt obligations of a foreign person if failure to grant an exclusion would imperil or threaten to imperil international monetary stability. The President has exercised this authority with respect to Canadian stock or debt obligations and, to the extent of $100 million a year, in the case of debt obligations issued or guaranteed by the Japanese Government. However, the exclusion is available only if a notice of the acquisition is filed within a period which is to be prescribed by regulations. Failure to comply with this notice requirement results in complete loss of the exclusion which, in effect, constitutes a 100-percent penalty. As a consequence of the severity of the penalty, the Internal Revenue Service has administratively postponed the date for filing the required notice.

Your committee has added an amendment to the House bill which moderates this penalty. It provides that when an exclusion is granted for purposes of international monetary stability, other than a limited exclusion, if the required notice of acquisition is not timely filed, the person required to file shall, in effect, lose 5 percent of the exclusion for failure to file on time. An additional 5 percent of the exclusion is to be lost for each 30-day period that the notice continues to be delinquent, up to a maximum loss of 25 percent of the exclusion. This amendment does not apply in the case of limited exclusions, such such as those involving Japanese issues, since under such an exclusion the notice serves the additional function of providing the information regarding the portion of the limited exclusion which has been utilized. Current information is needed on this, and so the present complete denial of the exclusion is retained in these cases.

This provision is to be effective for acquisitions after the date of enactment.

14. Fulfillment of treaty obligations in connection with international monetary stability exclusion (sec. 4(j) of the bill and sec. 4917(e) of the code)

Your committee has added an amendment to the bill which provides that the President, in considering whether to exercise his authority to grant an exemption under the international monetary stability provision, or to revoke an exemption granted under that provision, may take into account the degree to which the foreign country involved is according privileges to U.S. persons in conformity with existing treaties, particularly privileges relating to investments.

Your committee believes that it is appropriate for matters of this type to be taken into account by the President in an exemption which he grants, or continues, under the international monetary stability exclusion.

15. Dealers' stock resale exemption (sec. 4(k) of the bill and sec. 4919(a)(3) of the code)

Generally, dealers are subject to the interest equalization tax on their acquisition of foreign stock or debt obligations. However, they may recover the tax in certain cases if they resell to foreign persons. In the case of debt obligations, a refund or credit is available if the obligations are resold to a foreign person within 90 days after purchase. In the case of stock, the resale must occur on the day of purchase or the next 2 business days for the exemption to apply. This latter provision is known as the arbitrage exemption. In addition, refund or credit is available in the case of sales on a national securities exchange where a second dealer undertakes to resell a debt obligation on the day of purchase or the next day of business to a foreign person, or where a dealer sells stock subject to a "special contract" or, in effect, sells it on the foreign market. In addition, debt obligations may be sold in over-the-counter markets from one dealer to another where the second dealer resells the debt obligation on the day of purchase or on the next business day to a foreign person. No such procedure in the case of over-the-counter sales is available, however, in the case of the sales of stock from one dealer to another.

This disparity of treatment of stocks and debt obligations in the case of the over-the-counter market was necessary at the time of the enactment of the interest equalization tax because no confirmation procedure had at that time been worked out by the National Association of Securities Dealers for foreign stock resales corresponding to the procedures they had worked out for foreign debt obligations. However, the necessary rules for confirmation procedures are now being established.

The bill, therefore, allows a dealer to claim a credit or refund for sales of stock in over-the-counter transactions where the sale is made to another dealer who then sells the stock on the same day or on the next business day to foreign persons. This accords the same credit or refund procedure for sales of stock in over-the-counter transactions as is presently available for stocks sold through national securities exchanges or bonds sold either through such exchanges or over the counter.

This provision is to become effective for acquisitions after February 10, 1965.

16. Foreign branches of U.S. financiny companies (sec. 4(l) of the bill and sec. 4920(a)(5A) of the code)

Under present law, the interest equalization tax generally applies to acquisitions by Americans of stock of a foreign corporation or of foreign debt obligations with a remaining maturity of 3 years or more. As a result tax generally does not apply where foreign branches of U.S. financing companies lend local currency to finance the purchase of products manufactured or assembled by related corporations where the loans have a period to maturity of less than 3 years.

This bill's extension of the interest equalization tax to foreign debt obligations with a remaining maturity of 1 to 3 years would (in the absence of this exclusion) subject to tax foreign loans of this type. Imposing tax on these loans might well have an adverse effect on the already existing business of the related corporation which produced the products financed by these loans. Moreover such loans, because they can be expected to be financed out of foreign funds, would generally have little adverse effect on our balance of payments.

The bill provides an election which exempts loans such as those described above by treating certain foreign branches of American financing corporations as separate foreign corporations. In order to qualify, the branch, and the financing company as a whole, must, for the taxable year involved, be primarily engaged (90 percent) in the trade or business of making loans to finance the purchase of products produced or assembled by a related corporation including other operations incidental thereto. The branch's loans must be repayable exclusively in foreign currency. The foreign branch also must have been in operation on February 10, 1965, and for the prior 12 months and must maintain separate books and records. A branch which elects to avail itself of this exemption will not be allowed to issue certificates of American ownership. Transfers (including transfers for consideration) made to it will be taxable as if made to a foreign corporation.

A separate election may be made for different branch offices but all branches located within a single country must be treated as a single branch for this purpose. As a result, all of the tests described above must be met on the basis of the entire business done within a single country by all branches.

Your committee has retained the House amendment but modified it in two respects in which it is believed the House version of the provision would have had unintended effects. First, it has modified the 90-percent test described above to provide that the financing may cover, not only products produced by a related corporation, but also products received in partial payment for products manufactured by the related corporation—that is, included within the financing considered in applying the 90-percent test will be products which are traded in for products manufactured by a related producer. The second modification made by your committee provides that the financing branch may, in addition to being engaged in the trade or business of acquiring debt obligations, also be in the business of servicing debt obligations arising out of the sale of tangible personal property produced by a related manufacturing corporation or out of the sale of tangible personal property traded-in for property so produced). Thus, for purposes of this provision, the servicing of debt obligations, whether or not these obligations are acquired by it, is to be considered a part of its loan business, so long as these debt obligations relate to the property produced by the related manufacturer (or traded in on such property).

This provision applies to acquisitions made after February 10, 1965.

17. Foreign stock issues treated as domestic (sec. 4(m) of the bill and sec. 4920(a)(8) of the code)

Under present law a class of stock of a foreign corporation which was chiefly owned by Americans or primarily traded on U.S. security markets prior to the application of the interest equalization tax is treated as stock of a domestic corporation. Therefore, the shares of such class of stock can be traded free of the tax. Specifically, the tax does not apply if as of the latest record date before July 19, 1963 (1) more than 65 percent of such class of stock was held of record by U.S. persons; or (2) the class of stock was traded on one or more national securities exchanges registered with the Securities and Exchange Commission which constituted the principal market during 1962 for the class of stock and 50 percent of such class of stock was held of record by U.S. persons.

The Internal Revenue Service has interpreted this provision as exempting only those shares of a class which were issued and outstanding as of the corporation's latest record date before July 19, 1963 (Rev. Proc. 64-50). However, since this interpretation had not generally been expected by taxpayers, the Service took the position that in addition to the shares which it considered exempt, the exemption would also apply to identical shares which were (1) issued on or before November 10, 1964; (2) issued after that date pursuant to a written commitment made on or before that date; or (3) issued after that date in exchange solely for otherwise qualifying shares of stock.

Shares issued after November 10, 1964, to employees of a foreign corporation pursuant to stock option plans in existence on or before that date would, under both the House and your committee's versions of the bill, be treated as part of an exempt class of stock under this provision if such shares are identical with shares of an exempt class of stock, whether or not such employees were employed by the issuing corporation until after November 10, 1964, and whether or not the corporation was required to authorize the issuance of additional shares after that date in order to meet its obligations under the plan.

Since this provision was originally intended to grant an exemption for stocks of a foreign corporation in which there was substantial American ownership, there appears no reason not to extend the exemption to new shares of the same class issued by such a corporation so long as certain safeguards are met and the original tests requiring a specific degree of American involvement continue to be satisfied.

The bill provides that the exemption provided by the present law is to continue and the Internal Revenue Service interpretation of what constitutes a "class of stock" is codified. Additionally, identical shares of a class of stock exempt under the present provision can be issued after November 10, 1964, provided on July 19, 1963, the corporation had 250 shareholders and was actively engaged in a trade or business. The corporation must also continue to meet the American involvement tests (65 percent U.S. ownership, or 50 percent U.S. ownership for those which were principally traded on American exchanges). In addition the entire new issue must be such as would qualify for an exemption as an issue of a less developed country corporation, of a corporation in a country to which the international monetary stabilization exemption applies (Canada), or made in certain tax-free reorganizations.

Included in the group of exempt stocks as a result of codifying the Internal Revenue Service rules are shares issued after November 10, 1964, pursuant to a reorganization in which the foreign corporation acquires the assets of a domestic corporation, meeting the terms set forth above, in exchange for stock. Your committee has added an amendment which extends the exemption to shares issued pursuant to a reorganization in which the foreign corporation acquires stock of such a domestic corporation in exhange for stock.

This provision applies to acquisitions made after November 10, 1964.

18. Foreign currency deposits of foreign branch banks (sec. 4(n)(1) of the bill and sec. 4931(c)(2) of the code)

Although the President has exercised his authority and extended the interest equalization tax to commercial bank loans, acquisitions by commercial banks at branches located outside of the United States of foreign debt obligations repayable in foreign currencies still are exempt (Executive Order 11198). However, the President has the authority at some future time to subject foreign branch acquisitions to the interest equalization tax although the act provides a minimum exemption in the event he takes this action. Under the minimum foreign branch exemption, a foreign branch of a commercial bank is not to be taxable on the acquisition of debt obligations of foreigners, made in the ordinary course of the commercial banking business, to the extent that such loans do not exceed 110 percent of the branches' foreign currency deposits of other than banks.

The deposits of foreign banks may constitute a substantial proportion of a branch's foreign currency deposits with the result that the amount of the foreign currency which the branch could lend free of the interest equalization tax could be substantially reduced. Your committee agrees with the House that there is no reason for excluding the deposits of foreign banks from such a branch's permissible loan base since these also represent foreign currency deposits and are no more likely to have an adverse effect on our balance of payments than the branch's other foreign currency deposits.

The bill provides that if the President exercises his authority to make loans by foreign bank branches of U.S. persons taxable the branches will be permitted to include within their loan base (for purposes of computing the 110-percent fund representing foreign securities free of tax) the foreign currency deposits received by them from any bank other than a U.S. person engaged in the commercial banking business, or its affiliates.

This provision applies for acquisitions made after February 10, 1965

19. Acquisitions from U.S. persons (sec. 4(n)(2) of the bill and sec. 4931(c) of the code)

Under present law, generally where there is prior American ownership, foreign stock or debt obligations can be purchased free of tax. This exemption was denied U.S. commercial bank acquisitions of foreign debt obligations with remaining maturity of 1 to 3 years because if the President chose—and he subsequently did—to exercise his authority to extend the interest equalization tax to commercial bank loans with a period to maturity of 1 year or more, commercial banks would be the only group of lenders which would be subject to the tax on loans of 1 to 3 years' maturity. To have permitted them to acquire 1- to 3-year term debt free of tax because of a certificate of prior American ownership would have enabled them to avoid the tax by purchasing 1- to 3-year term foreign obligations from Americans who in turn had just acquired them from foreigners.

This bill provides that all lenders are to be taxable on 1- to 3-year loans and since commercial banks will no longer be the only group of lenders subject to the tax on loans of such a maturity, there is no longer a need for the prohibition on the use of American ownership certificates by commercial banks acquiring 1- to 3-year debt obligations. Therefore, the bill will permit commercial banks to acquire these 1- to 3-year term obligations under certificates of American ownership without payment of tax.

This provision applies to acquisitions after February 10, 1965.

20. Deductibility of interest equalization tax (sec. 4(o) of the bill and sec. 263(d) of the code)

Under present law the income tax treatment of the interest equalization tax depends upon whether or not the taxpayer is reimbursed for any part of the tax. To the extent that he is not reimbursed, the interest equalization tax is a nondeductible capital expenditure. If he is reimbursed for any part of the tax, the amount received as reimbursement is included in his income and an equal amount of tax is deductible by him. However, the deduction is allowed only if, and to the extent that, the reimbursement income and the tax deduction are both properly taken into account for the same taxable year.

The present income tax deduction was granted on the basis that it would not be equitable to impose the interest equalization tax on a person and also impose an income tax on the reimbursement.

Therefore, the bill contains an amendment to allow a deduction for interest equalization tax paid or accrued to the extent the reimbursement is included in income in either the same year or a subsequent year.

This provision is effective for taxable years ending after September 2, 1964.

21. Preexisting commitments (sec. 5(a) of the bill and sec 2(c)(2)(B) of the Interest Equalization Tax Act)

Present law provides that in certain situations the interest equalization tax does not apply to acquisitions of foreign stock or debt obligations made pursuant to pre-July 19, 1963, obligations or commitments. Generally, exemption is granted in the case of commitments where prior to July 19, 1963, the acquiring U.S. person had taken every action to signify approval under the procedures ordinarily employed by such person in similar transactions and had sent to the person from whom the acquisition was made written evidence of the approval in the form of a commitment letter (or memorandum of terms, draft purchase contract, or similar document). If the acquisition is by two or more persons, a majority in interest must have taken the required action. Your committee believed that in situations in which the U.S. persons acquiring the obligations were effectively committed to conclude the transactions under agreed terms, prior to the administration's public announcement of the proposed tax, the tax should not apply.

Your committee has added an amendment which is consistent with the principle upon which the above-mentioned exemptions are based. The amendment provides an exemption where all the requirements of the present law are met, except that regarding the commitment letter, etc. It provides that the acquiring U.S. person may have received from the foreign borrower, prior to July 19, 1963, a memorandum of terms, draft purchase contract, or other document setting forth the terms of the acquisition, as an alternative to the requirement that the commitment letter, etc., must have been sent or delivered by the acquiring U.S. person to the foreign borrower.

This provision is to become effective for acquisitions after July 19, 1963.

22. Certain debt obligations of former less developed countries (sec. 5(b) of the bill)

Your committee has added an amendment which provides that the interest equalization tax is not to apply to the acquisition of debt obligations of a foreign country which was originally designated as a less developed country but with respect to which that designation was terminated before the date of enactment of this bill. This exemption will apply only if prior to the acquisition of the debt obligation, the Secretary of State has certified to the Secretary of the Treasury that—

(1) The government of a foreign country had, before April 6, 1965, communicated to the Department of State its intention to issue the debt obligation;

(2) The government of the foreign country had, before April 6, 1965, commenced negotiation with U.S. persons concerning the issuance of the debt obligations; and

(3) The granting of such an exemption is in the best interests of the United States.

It is the understanding of your committee that this amendment will apply only to certain debt obligations of the Bahamas.

23. Use of foreign currencies owned by the United States (sec. 6 of the bill)

As of December 31, 1964, U.S. holdings of foreign currencies exceeded $2.9 billion. By far the largest portion of this foreign currency was derived from the sale of surplus agricultural commodities although a substantial amount comes from sale of surplus military equipment to foreign governments, returns on economic assistance furnished to foreign governments, and from other sources. Over $1 billion of these funds is earmarked as being available to meet U.S. obligations. The largest amounts of these currencies are in countries where the supply of funds is great enough to more than cover the estimated normal operating requirements of the U.S. Government in the foreign country concerned for 2 years or more. Ongoing programs are expected to generate additional large quantities of foreign currencies.

The Committee on Finance is concerned over the utilization of these funds in all foreign countries in light of our balance-of-payments deficits and the outflow of gold. A report recently submitted to the Congress by the Comptroller General of the United States indicates that in many instances these funds are not being effectively utilized and that dollars are being expended to meet U.S. obligations abroad in the same countries in which the United States has substantial holdings of local currencies. Using dollars in this manner causes an outflow in our balance of payments and places added pressure on our gold holdings. Both of these undesirable effects could be avoided if U.S.-owned local currencies rather than dollars were used to pay our obligations abroad.

To assure greater utilization of our foreign currency holdings your committee has amended the House bill to require that international contracts and agreements hereafter entered into, modified or extended (other than agreements under title I of the Agricultural Trade Development and Assistance Act of 1954, generally known as Public Law 480), under which foreign currencies will accrue for the use of the United States, shall contain provisions that such currencies may be either (1) used to pay U.S. obligations in such country, or (2) used or converted into other currencies (or to dollars) for use in paying U.S. obligations in any foreign country, including obligations payable in dollars in the country whose currency is converted.

It is not required that any specific amount of foreign currencies actually be converted into dollars or other foreign currency. Decisions to convert any U.S.-owned foreign currency, including decisions as to amounts converted, if any, and the manner of conversion, are made prime responsibilities of the Secretary of the Treasury. As the chief financial officer of our Government, the Secretary of the Treasury, in the committee's opinion, is the logical officer on whom these functions (and others described later) should be placed.

In exercising his duties with respect to conversion of foreign currencies, the Secretary is to be guided not only by the needs of the United States, and the impact on its balance of payments, but also by the financial capability of the particular foreign country to have its currency converted.

Instances have been called to the attention of the committee where, under military assistance agreements, local currencies are provided to help defray the local cost of U.S. missions. Under these agreements any excess of such local currencies not needed for the purpose for which it was provided is required to be returned to the host country and is not available for U.S. use. In such cases, the excess amount would not be considered as having accrued "for the use of the United States" so as to invoke the requirement of convertibility provided by this amendment.

In many other situations the foreign currency involved either is freely convertible now or it can be entirely used in the foreign country where it was generated. In these instances, the convertibility clause required by this amendment will have little impact and should cause no inconvenience to the foreign country.

It has already been indicated that agreements under Public Law 480 are not to be affected by the convertibility requirements of this provision. The committee was concerned not only with the impact such a requirement might have on the food-for-peace program, but also with the effect it might have on overseas markets for our surplus agricultural commodities. Moreover, the committee was aware that less than 1 year ago Congress created an advisory committee to "review the status and usage of foreign currencies" generated under Public Law 480, and to recommend to the President ways and means of assuring to the United States—

> the maximum benefit from the use of such currencies, making special reference to any such currencies which are excess to the normal requirements of U.S. agencies. (See par. (8) of sec. 1 of Public Law 88-638, approved October 8, 1964.)

Your committee is hopeful that this special advisory committee (composed of the Secretary of Agriculture, the Director of the Bureau of the Budget, the Administrator of the Agency for International Development, and the Chairman and ranking minority member of the Agriculture Committees of both the House and Senate) will find useful ways to ease our balance-of-payments difficulties through greater utilization of the vast quantities of foreign currency which has accrued, or is accruing to the United States through sale of surplus agricultural commodities.

In light of this study and for the other reasons described above, the Committee on Finance limited the convertibility requirements of its amendment to currencies other than those arising under Public Law 480.

Under the committee amendment the Secretary of the Treasury is to perform certain other functions in addition to his executive responsibility of determining the need for converting foreign currencies into dollars, and the amount and manner of converting them where he deems it advisable to do so. Thus, under the President's direction he is to periodically ascertain, by country, the amount of funds required by the U.S. Government to pay its obligations in foreign countries, including obligations payable in foreign currencies. In making this determination, he should vigorously scrutinize estimates of the executive agencies to identify not only requirements for funds of U.S. agencies operating in the foreign country, but all the expenditures of the departments and agencies involving programs of assistance to those countries as well.

The Secretary is also to prepare annual reports to the Committee on Finance of the Senate and to the Committee on Ways and Means of the House. These reports are to show, both by executive agencies and by countries (1) the expenditures in dollars and in foreign currencies made during the preceding fiscal year in paying the obligations of the United States in foreign countries; (2) the amounts of foreign currencies available for the use of the United States at the close of such year; and (3) the amounts of foreign currencies convertible to other foreign currencies or to dollars at the close of such year. This data will aid greatly in measuring the effectiveness with which foreign currencies are utilized in meeting U.S. obligations abroad.

The following illustrate the kinds of expenditures which the committee would expect the Secretary of the Treasury to include in his considerations and for which convertible currencies would be sought to the extent indicated by the foreign country's financial capability:

1. U.S.-financed costs of transporting of persons and property to, from, and through the foreign country.
2. Procurement of supplies required within the country and those obtainable in the country which are needed for U.S. operations in other countries or in the aid program to other foreign countries.

The proposed legislation would carry out the recommendations of the General Accounting Office. In its report to the Congress on "Failure to effectively utilize excess U.S.-owned foreign currencies to pay international air travel ticket costs being paid in dollars," the General Accounting Office noted that the air transport industry was experiencing considerable difficulty in obtaining conversions of the local currencies received in payment of air travel. The U.S. Government would, therefore, be required to spend dollars, even where foreign currencies were available, unless the U.S. carriers were able to accept payment in foreign currencies on the assurance that any part of such currencies not needed for its expenses in that country were convertible to dollars.

IV. CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

SEC. 263. CAPITAL EXPENDITURES.

(a) GENERAL RULE.—No deduction shall be allowed for—

(1) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate. This paragraph shall not apply to—

(A) expenditures for the development of mines or deposits deductible under section 616,

(B) research and experimental expenditures deductible under section 174,

(C) soil and water conservation expenditures deductible under section 175,

(D) expenditures by farmers for fertilizer, etc., deductible under section 180, or

(E) expenditures by farmers for clearing land deductible under section 182.

(2) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made.

(3) [Any] *Except as provided in subsection (d), any* amount paid as tax under section 4911 (relating to imposition of interest equalization tax) [except to the extent that any amount attributable to the amount paid as tax is included in gross income for the taxable year].

(b) EXPENDITURES FOR ADVERTISING AND GOOD WILL.—If a corporation has, for the purpose of computing its excess profits tax credit under chapter 2E or subchapter D of chapter 1 of the Internal Revenue Code of 1939 claimed the benefits of the election provided in section 733 or section 451 of such code, as the case may be, no deduction shall be allowable under section 162 to such corporation for expenditures for advertising or the promotion of good will which, under the rules and regulations prescribed under section 733 or section 451 of such code, as the case may be, may be regarded as capital investments.

(c) INTANGIBLE DRILLING AND DEVELOPMENT COSTS IN THE CASE OF OIL AND GAS WELLS.—Notwithstanding section (a), regulations shall be prescribed by the Secretary or his delegate under this subtitle corresponding to the regulations which granted the option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells and which were recognized and approved by the Congress in House Concurrent Resolution 50, Seventy-ninth Congress.

(d) REIMBURSEMENT OF INTEREST EQUALIZATION TAX.—The deduction allowed by section 162(a) or 212 (whichever is appropriate) shall include any amount paid or accrued in the taxable year or a preceding taxable year as tax under section 4911 (relating to imposition of interest equalization tax) to the extent that any amount attributable to the amount paid or accrued as tax is included in gross income for the taxable year. Under regulations prescribed by the Secretary or his delegate, the preceding sentence shall not apply with respect to any amount attributable to that part of the tax so paid or accrued which is attributable to an amount for which a deduction has been claimed for the taxable year or a preceding taxable year under section 171 (relating to amortization of bond premium).

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CHAPTER 41—INTEREST EQUALIZATION TAX

Subchapter A—Acquisitions of Foreign Stock and Debt Obligations

SEC. 4911. IMPOSITION OF TAX.

(a) IN GENERAL.—There is hereby imposed, on each acquisition by a United States person (as defined in section 4920(a)(4)) of stock of a foreign issuer, or of a debt obligation of a foreign obligor (if such obligation has a period remaining to maturity of [3 years] 1 *year* or more), a tax determined under subsection (b).

(b) AMOUNT OF TAX.—

(1) STOCK.—The tax imposed by subsection (a) on the acquisition of stock shall be equal to 15 percent of the actual value of the stock.

(2) DEBT OBLIGATIONS.—The tax imposed by subsection (a) on the acquisition of a debt obligation shall be equal to a percentage of the actual value of the debt obligation measured by the period remaining to its maturity and determined in accordance with the following table:

If the period remaining to maturity is:	The tax, as a percentage of actual value, is:
[At least 3 years, but less than 3½ years	2.75 percent]
At least 1 year, but less than 1¼ years	*1.05 percent*
At least 1¼ years, but less than 1½ years	*1.30 percent*
At least 1½ years, but less than 1¾ years	*1.50 percent*
At least 1¾ years, but less than 2¼ years	*1.85 percent*
At least 2¼ years, but less than 2¾ years	*2.30 percent*
At least 2¾ years, but less than 3½ years	*2.75 percent*
At least 3½ years, but less than 4½ years	3.55 percent
At least 4½ years, but less than 5½ years	4.35 percent
At least 5½ years, but less than 6½ years	5.10 percent
At least 6½ years, but less than 7½ years	5.80 percent
At least 7½ years, but less than 8½ years	6.50 percent
At least 8½ years, but less than 9½ years	7.10 percent
At least 9½ years, but less than 10½ years	7.70 percent
At least 10½ years, but less than 11½ years	8.30 percent
At least 11½ years, but less than 13½ years	9.10 percent
At least 13½ years, but less than 16½ years	10.30 percent
At least 16½ years, but less than 18½ years	11.35 percent
At least 18½ years, but less than 21½ years	12.25 percent
At least 21½ years, but less than 23½ years	13.05 percent
At least 23½ years, but less than 26½ years	13.75 percent
At least 26½ years, but less than 28½ years	14.35 percent
28½ years or more	15.00 percent.

(c) PERSONS LIABLE FOR TAX.—

(1) IN GENERAL.—The tax imposed by subsection (a) shall be paid by the person acquiring the stock or debt obligation involved.

(2) CROSS REFERENCE.—

For imposition of penalty on maker of false certificate in lieu of or in addition to tax on acquisition in certain cases, see section 6681.

(d) TERMINATION OF TAX.—The tax imposed by subsection (a) shall not apply to any acquisition made after [December 31, 1965] *December 31, 1967.*

SEC. 4912. ACQUISITIONS.

(a) IN GENERAL.—For purposes of this chapter, the term "acquisition" means any purchase, transfer, distribution, exchange, or other transaction by virtue of which ownership is obtained either directly or through a nominee, custodian, or agent. A United States person acting as a fiscal agent in connection with the redemption or purchase for retirement of stock or debt obligations (whether or not acting under a trust arrangement) shall not be considered to obtain ownership of such stock or debt obligations. The exercise of a right to convert a debt obligation (as defined in section 4920(a)(1)) into stock shall be deemed an acquisition of stock from the foreign issuer by the person exercising such right. Any extension or renewal of an existing debt obligation requiring affirmative action of the obligee shall be considered the acquisition of a new debt obligation.

(b) SPECIAL RULES.—For purposes of this chapter—

(1) CERTAIN TRANSFERS TO FOREIGN TRUSTS.—Any transfer (other than in a sale or exchange for full and adequate consideration) of money or other property to a foreign trust shall, if such trust acquires stock or debt obligations (of one or more foreign issuers or obligors) the direct acquisition of which by the transferor would be subject to the tax imposed by section 4911, be deemed an acquisition by the transferor (as of the time of such transfer) of stock of a foreign issuer in an amount equal to the actual value of the money or property transferred or, if less, the actual value of the stock or debt obligations so acquired by such trust. Contributions made by employer to a foreign pension or profit-sharing trust established by such employer for the exclusive benefit of employees (who are not owner-employees as defined in section 401(c)(3)) who perform personal services for such employer on a full-time basis in a foreign country, and contributions to a foreign pension or profit-sharing trust established by an employer, made by an employee who performs personal services for such employer on a full-time basis in a foreign country (and is not an owner-employee as defined in section 401(c)(3)), shall not be considered under the preceding sentence as transfers which may be deemed acquisitions of stock of a foreign issuer.

(2) CERTAIN TRANSFERS.—

(A) TRANSFERS TO FOREIGN CORPORATIONS AND PARTNERSHIPS.—Any transfer of money or other property to a foreign corporation or a foreign partnership—

(i) as a contribution to the capital of such corporation or partnership, or

(ii) in exchange for one or more debt obligations of such corporation or partnership, if it is a foreign corporation or partnership which is formed or availed of by the transferor for the principal purpose of acquiring (in the manner described in section 4915(c)(1)) an interest in stock or debt obligations the direct acquisition of which by the transferor would be subject to the tax imposed by section 4911,

shall be deemed an acquisition by the transferor of stock of a foreign corporation or partnership in an amount equal to the actual value of the money or property transferred.

(B) TRANSFERS TO FOREIGN BRANCHES.—If a domestic corporation or partnership transfers money or other property *(including, in the case of a transfer to a branch office described in section 4920(a)(5A), a transfer made for consideration)* to, or applies money or other property for the benefit of, a branch office of such corporation or partnership with respect to which there is in effect an election under [section 4920(a)(5)(E)] *paragraph (5) or (5A) of section 4920(a)*, or if funds are borrowed by such branch office from a bank (as defined in section 581), other than from a branch of such a bank located outside the United States lending such funds in the ordinary course of its business, such domestic corporation or partnership shall be deemed to have acquired stock of a foreign corporation or partnership in an amount equal to the actual value of the money or property transferred or applied, or the funds borrowed.

(3) ACQUISITIONS FROM DOMESTIC CORPORATION OR PARTNERSHIP FORMED OR AVAILED OF TO OBTAIN FUNDS FOR FOREIGN ISSUER OR OBLIGOR.—The acquisition of stock or a debt obligation of a domestic corporation (other than a domestic corporation described in section 4920(a)(3)(B)), or a domestic partnership, formed or availed of for the principal purpose of obtaining funds (directly or indirectly) for a foreign issuer or obligor, shall be deemed an acquisition (from such foreign issure or obligor) of stock or a debt obligation of such foreign issuer or obligor.

(4) REORGANIZATION EXCHANGES.—Any acquisition of stock or debt obligations of a foreign issuer or obligor in an exchange to which section 354, 355, or 356 applies (or would, but for section 367, apply) shall be deemed an acquisition from the foreign issuer or obligor in exchange for its stock or for its debt obligations. For purposes of this paragraph, in determining whether section 354, 355, or 356 applies, or would apply, to any transaction—

(A) such transaction shall, if it took place before the date of the enactment of this chapter, be treated as taking place on such date, and

(B) section 368(a)(1)(B) shall be treated as permitting the receipt by a United States person of money or other property in addition to voting stock.

* * * * * * *

SEC. 4914. EXCLUSION FOR CERTAIN ACQUISITIONS.

(a) TRANSACTIONS NOT CONSIDERED ACQUISITIONS.—The term "acquisition" shall not include—

(1) any transfer between a person and his nominee, custodian, or agent;

(2) any transfer described in section 4343(a) (relating to certain transfers by operation of law from decedents, minors, incompetents, financial institutions, bankrupts, successors, foreign governments and aliens, trustees, and survivors) as in effect on January 1, 1965;

(3) any transfer by legacy, bequest, or inheritance to a United States person, or by gift to a United States person who is an individual;

(4) any distribution by a corporation of its stock or debt obligations to a shareholder with respect to or in exchange for its stock;

(5) any distribution to a shareholder by a corporation of stock or debt obligations owned by such corporation on July 18, 1963, in complete or partial liquidation of such corporation, to the extent such shareholder acquired his stock ownership in such corporation in a transaction other than in an acquisition excluded from tax under subsection (b) of this section, or under section 4915, 4916, or 4917;

(6) any exchange to which section 361 applies (or would, but for section 367, apply), where the transferor corporation was a

domestic corporation and was engaged in the active conduct of a trade or business, other than as a dealer in securities, immediately before the date on which the assets involved are transferred to the acquiring corporation;

(7) any exercise of a right to convert indebtedness, pursuant to its terms, into stock, if such indebtedness is treated as stock pursuant to section 4920(a)(2)(D); or

(8) the grant of a stock option or similar right to a United States person who is an individual, for any reason connected with his employment by a corporation, if such option or right (A) is granted by the employer corporation, or its parent or subsidiary corporation, to purchase stock of any such corporations, and (B) by its terms is not transferable by such United States person otherwise than by will or the laws of descent and distribution, and is exercisable, during his lifetime, only by him.

(b) EXCLUDED ACQUISITIONS.—The tax imposed by section 4911 shall not apply to the acquisition—

(1) THE UNITED STATES.—Of stock or debt obligations by an agency or wholly owned instrumentality of the United States.

(2) COMMERCIAL BANK LOANS.—

(A) Of debt obligations by a commercial bank in making loans in the ordinary course of its commercial banking business.

(B) Of stock or debt obligations by a commercial bank through foreclosure, where such stock or debt obligations were held as security for loans made in the ordinary course of its commercial banking business.

Stock or debt obligations acquired by a foreign branch of a corporation, in connection with its banking business, shall be considered debt obligations described in subparagraph (A) of the preceding sentence if—

(i) such branch is engaged in the commercial banking business and is also a member of a foreign stock exchange all the members of which on June 29, 1965, were banks,

(ii) on July 18, 1963, such branch was so engaged and was such a member,

(iii) such stock or debt obligations would not (but for this sentence) be excludable under the preceding sentence, and

(iv) at the time of such acquisition, such branch does not hold stock and debt obligations described in clause (iii) which have an adjusted basis in excess of 3 percent of the deposits of the customers (other than deposits of United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member) of such branch payable in the currency of the country in which such branch is located.

(3) ACQUISITIONS REQUIRED UNDER FOREIGN LAW.—Of stock or debt obligations by a United States person doing business in a foreign country to the extent that such acquisitions are reasonably necessary to satisfy minimum requirements relating to holdings of stock or debt obligations of foreign issuers or obligors imposed by the laws of such foreign country; except that if any of such requirements relate to the holding of insurance reserves, the exclusion otherwise allowable under this paragraph with respect to acquisitions made by such United States person during any calendar year shall be reduced by the maximum amount of

the exclusion which could be allowed under subsection (e) with respect to accquisitions made by such person during that year, or by the amount of the insurance reserves which must be held in order to satisfy such requirements, whichever is less.

(4) ACQUISITIONS IN LIEU OF PAYMENT OF FOREIGN TAX.—Of stock or debt obligations by a United States person doing business in a foreign country, to the extent such acquisition is made, in conformity with the laws of such foreign country, as a substitute for the payment of tax to such foreign country.

(5) ACQUISITIONS OF STOCK IN COOPERATIVE HOUSING CORPORATIONS.—Of stock of a foreign corporation which entitles the holder, solely by reason of his ownership of such stock, to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation.

(6) EXPORT CREDIT, ETC., TRANSACTIONS.—Of stock or debt obligations arising from the sale *or lease* of property or services by United States persons, to the extent provided in subsection (c).

(7) LOANS TO ASSURE RAW MATERIALS SOURCES.—Of debt obligations by United States persons in connection with loans made to foreign corporations to assure raw materials sources, to the extent provided in subsection (d).

(8) ACQUISITIONS BY INSURANCE COMPANIES DOING BUSINESS IN FOREIGN COUNTRIES.—Of stock or debt obligations by insurance companies doing business in foreign countries, to the extent provided in subsection (e).

(9) ACQUISITIONS BY CERTAIN TAX-EXEMPT LABOR, FRATERNAL, AND SIMILAR ORGANIZATIONS, HAVING FOREIGN BRANCHES OR CHAPTERS.—Of stock or debt obligations by certain tax-exempt United States persons operating in foreign countries through local organizations, to the extent provided in subsection (f).

[(10) ACQUISITIONS OF DEBT OBLIGATIONS ON SALE OR LIQUIDATION OF WHOLLY FOREIGN SUBSIDIARIES.—Of debt obligations acquired in connection with the sales or liquidation of a wholly owned foreign corporation, to the extent provided in subsection (g).]

(10) ACQUISITIONS OF DEBT OBLIGATIONS ON SALE OR LIQUIDATION OF WHOLLY OWNED FOREIGN SUBSIDIARIES OR SALE OF FOREIGN BRANCHES.—Of debt obligations acquired in connection with the sale or liquidation of a wholly owned foreign corporation or of a foreign branch, to the extent provided in subsection (g).

[(11) ACQUISITIONS OF DEBT OBLIGATIONS ARISING OUT OF PURCHASE OF REAL PROPERTY LOCATED IN THE UNITED STATES.—Of debt obligations secured by real property located in the United States and arising out of the purchase of such property from United States persons, to the extent provided in subsection (h).]

(11) ACQUISITIONS OF CERTAIN DEBT OBLIGATIONS SECURED BY REAL PROPERTY IN THE UNITED STATES.—Of debt obligations secured by real property in the United States, to the extent provided in subsection (h).

(12) ACQUISITIONS BY UNITED STATES PERSONS RESIDING IN FOREIGN COUNTRIES OF STOCK OF CERTAIN FOREIGN ISSUERS INVESTING EXCLUSIVELY IN THE UNITED STATES.—Of stock of foreign issuers investing exclusively in the United States by United States persons residing in foreign countries, to the extent provided in subsection (i).

(13) STUDENT LOANS.—Of debt obligations which arise out of loans to a foreign obligor registered as a full-time student at an educational institution (as defined in section 151(e)(4) in the United States, to the extent that the acquisition by the acquiring person of such debt obligations with a period remaining to maturity of 1 year or more from such obligor in any calendar year does not exceed $2,500.

(14) TANGIBLE PROPERTY HELD FOR PERSONAL USE.—Of debt obligations arising out of the sale of tangible property located outside the United States which was held for his personal use by the person acquiring such obligation.

(c) EXPORT CREDIT, ETC., TRANSACTIONS.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor of a debt obligation arising out of the sale of tangible personal property or services (or both) to such obligor by any United States person, if—

(A) payment of such debt obligation (or of any related debt obligation arising out of such sale) is guaranteed or insured, in whole or in part, by an agency or wholly owned instrumentality of the United States; or

(B) the United States person acquiring such debt obligation makes the sale in the ordinary course of his trade or business and not less than 85 percent of the purchase price is attributable to the sale of property manufactured, produced, grown, or extracted in the United States, or to the performance of services by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to both.

The term "services", as used in this paragraph and paragraph (2), shall not be construed to include functions performed as an underwriter.

(2) ALTERNATE RULE FOR PRODUCING EXPORTERS.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person from a foreign issuer or obligor of its stock in payment for, or of a debt obligation arising out of, the sale of tangible personal property or services (or both) to such issuer or obligor, if

(A) at least 30 percent of the purchase price, or 60 percent of the actual value of the stock or debt obligation acquired, is attributable to the sale of property manufactured, produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to the performance of services by such United States person (or by one or more such corporations), or to both, and

(B) at least 50 percent of the purchase price, or 100 percent of the actual value of the stock or debt obligation acquired, is attributable to the sale of property manufactured, produced, grown, or extracted in the United States, or to the performance of services by United States persons, or to both.

(3) CERTAIN INTERESTS IN INTANGIBLE PERSONAL PROPERTY.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person from a foreign issuer or obligor of its stock in payment for, or of a debt obligation arising out of, the sale or license to such issuer or obligor of—

(A) any interest in patents, inventions, models or designs (whether or not patented), copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, or other like property (or any combination thereof), or

(B) any such interest together with services to be performed in connection with any such interest sold or licensed by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member).

if not less than 85 percent of the purchase price, or license fee, is attributable to the sale or license of any interest in property described in subparagraph (A) which was produced, created, or developed in the United States by such United States person (or by one or more such includible corporations), or is attributable to the sale or license of any interest in such property so produced, created, or developed and to the performance of services described in subparagraph (B).

(4) EXPORT-RELATED LOANS.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation arising out of a loan made to the obligor to increase or maintain sales of tangible personal property produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), but only if the proceeds of the loan will be used by the obligor for the installation, maintenance, or improvement of facilities outside the United States which (during the period the loan is outstanding) will be used for the storage, handling, transportation, processing, packaging, or servicing of property a substantial portion of which is tangible personal property produced, grown, or extracted in the United States by such person (or one or more such corporations).

(5) OTHER LOANS RELATED TO CERTAIN SALES BY UNITED STATES PERSONS.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such obligor if such debt obligation—

(A) was received by such United States person as all or part of the purchase price provided in a contract under which the foreign obligor agrees to purchase for a period of 3 years or more ores or minerals (or derivatives thereof)—

(i) extracted outside the United States by such United States person or by one or more includible corporations in an affiliated group (as defined in section 48(c)(3)(C)) of which such United States person is a member,

(ii) extracted outside the United States by a corporation at least 10 percent of the total combined voting power of all classes of stock of which is owned, directly or indirectly, by such United States person, by one or more such includible corporations, or by domestic corporations which own, directly or indirectly, at least 50 percent of the total combined voting power of all classes of stock of such United States person,

(iii) obtained under a contract entered into on or before July 18, 1963, by such United States person, by one or more such includible corporations, or by such domestic corporations, or

(iv) extracted outside the United States and obtained by such United States person, by one or more such includible corporations, or by such domestic corporations in exchange for similar ores or minerals (or derivatives thereof) described in clause (i), (ii), or (iii); or

(B) arises out of a loan (made by such United States person to such foreign obligor) the proceeds of which will be used by such obligor (or by a person controlled by, or controlling, such obligor) for the installation, maintenance, or improvement of facilities outside the United States which (during the period the loan is outstanding) will be used for the storage, handling, transportation, processing, or servicing of ores or minerals (or derivatives thereof) a substantial portion of which is extracted outside the United States by such United States person or by a corporation referred to in clause (i) or (ii) of subparagraph (A), is obtained under a contract described in clause (iii) of subparagraph (A), or is obtained in an exchange described in clause (iv) of subparagraph (A).

(6) CERTAIN EXPORT LEASES.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such obligor arising out of a lease of personal property to such obligor by such United States person if not less than 85 percent of the amount to be paid under the lease (determined as of the date of acquisition of the debt obligation) is attributable to the use of tangible personal property which was manufactured, produced, grown, or extracted in the United States by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 1504, of which such person is a member), or to the performance of services pursuant to the terms of the lease by such United States person (or by one or more such corporations) with respect to such personal property, or to both.

[(6)**]** (7) CROSS REFERENCE.—

For loss of exclusion otherwise allowable under this subsection in case of certain subsequent transfers, see subsection (j).

(d) LOANS TO ASSURE RAW MATERIALS SOURCES.—

(1) GENERAL RULE.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of a debt obligation arising out of a loan made by such person to a foreign corporation, if—

(A) such foreign corporation extracts or processes ores or minerals the available deposits of which in the United States are inadequate to satisfy the needs of domestic producers.

(B) United States persons own at the time of such acquisition at least 50 percent of the total combined voting power of all classes of stock of such foreign corporation; and

(C) such loan will be amortized under a contract or contracts in which persons owning stock of such corporation (including at least one of the United States persons referred to in subparagraph (B)) agree to pay during the period remaining to maturity of such obligation, by purchasing a part of the production of such corporation or otherwise, a portion of such corporation's costs of operation and costs of amortizing outstanding loans.

(2) LIMITATION.—The exclusion from tax provided by paragraph (1) shall apply to the acquisition of any debt obligation of a foreign corporation only to the extent that—

(A) the applicable percentage of (i) the actual value of the debt obligation acquired, plus (ii) the actual value (determined as of the time of such acquisition) of all other debt obligations representing loans which were theretofore made to the foreign corporation during the same calendar year and which are amortizable under contracts of the type described in paragraph (1)(C), exceeds

(B) the actual value of the debt obligations described in subparagraph (A)(ii) representing loans made by United States persons, to the extent that the acquisition of such obligations was excluded from tax under this subsection.

As used in this paragraph with respect to the acquisition of a debt obligation, the term "applicable percentage" means the lesser of (i) the percentage of the total combined voting power of all classes of stock of the foreign corporation which is owned by the United States persons at the time of such acquisition, or (ii) the percentage of the corporation's operating and amortization costs for the calendar year which all such United States persons have agreed to pay (as of the time of such acquisition) under contracts of the type described in paragraph (1)(C).

(e) ACQUISITIONS BY INSURANCE COMPANIES DOING BUSINESS IN FOREIGN COUNTRIES.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition of stock or a debt obligation by a United States person which is an insurance company subject to taxation under section 802, 821, or 831, if such stock or debt obligation is designated (in accordance with paragraph (3)) as part of a fund of assets established and maintained by such insurance company (in accordance with paragraph (2)) with respect to foreign risks insured or reinsured by such company under contracts (including annuity contracts) the proceeds of which are payable only in the currency of a foreign country. As used in this subsection, the term "foreign risks" means risks in connection with property outside, or liability arising out of activity outside, or in connection with the lives or health of residents of countries other than, the United States.

(2) ESTABLISHMENT AND MAINTENANCE OF FUND OF ASSETS.—Each insurance company which desires to obtain the benefit of exclusions under this subsection shall (as a condition of entitlement to any such exclusion) establish and maintain a fund (or funds) of assets in accordance with this paragraph and paragraph (3). A life insurance company (as defined in section 801(a)) shall establish such a fund of assets separately for each foreign currency (other than the currency of a country which

qualifies as a less developed country) in which the proceeds of its insurance contracts are payable and for which insurance reserves are maintained by such company, and with respect to which it desires to obtain the benefits of exclusions under this subsection; and the preceding sentence shall be applied separately to each such fund in determining the company's entitlement to exclude acquisitions of stock and debt obligations designated as a part thereof. An insurance company other than a life insurance company (as so defined) shall establish a single fund of assets for all foreign currencies (other than currencies of countries which qualify as less developed countries at the time of the initial designation) in which the proceeds of its insurance contracts are payable and for which insurance reserves are maintained by such company.

(3) DESIGNATION OF ASSETS.—

(A) INITIAL DESIGNATION.—

(i) REQUIREMENT OF INITIAL DESIGNATION.—An insurance company desiring to establish a fund (or funds) of assets under paragraph (2) shall initially designate, as part of all of such fund (or funds), stock and debt obligations owned by it on July 18, 1963, as follows: First, stock of foreign issuers, and debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of 3 years or more and payable in foreign currency; second, if the company so elects, debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of less than 3 years and payable in foreign currency; and third, debt obligations of foreign obligors having a period remaining to maturity (on July 18, 1963) of 3 years or more and payable solely in United States currency. The designation under the preceding sentence with respect to any fund shall be made, in the order set forth, to the extent that the adjusted basis (within the meaning of section 1011) of the designated stock and debt obligations was (on July 18, 1963) not in excess of 110 percent of the allowable reserve applicable to such fund (determined in accordance with paragraph (4)(B)(ii)), and shall in no case include any stock or debt obligation described in section 4916(a).

(ii) TIME AND MANNER OF INITIAL DESIGNATION.—Any initial designation which an insurance company is required to make under this subparagraph shall be made on or before the 30th day after the date of the enactment of this chapter (or at such later time as the Secretary or his delegate may by regulations prescribe) by the segregation on the books of such company of the stock or debt obligations (or both) designated.

[(B) CURRENT DESIGNATIONS TO MAINTAIN FUND.—To the extent permitted by subparagraph (E), stock of a foreign issuer or a debt obligation of a foreign obligor acquired by an insurance company after July 18, 1963, may be designated as part of a fund of assets described in paragraph (2), if such designation is made before the expiration of 30 days after the date of such acquisition and the company continues to own the stock or debt obligation until the time the designation is made; except that any such stock or debt obligation acquired before the initial designation of assets to the fund is actually made as provided in subparagraph (A)(ii) may be designated under this subparagraph at the time of such initial designation without regard to such 30-day and continued ownership requirements.]

(*B*) *CURRENT DESIGNATIONS TO MAINTAIN FUND.*—

(*i*) *IN GENERAL.*—*To the extent permitted by subparagraph (E), stock of a foreign issuer or a debt obligation of a foreign obligor acquired by an insurance company after July 18, 1963, may be designated as part of a fund of assets described in paragraph (2), if such designation is made before the expiration of 30 days after the date of such acquisition and the company continues to own the stock or debt obligation until the time the designation is made; except that any such stock or debt obligation acquired before the initial designation of assets to the fund is actually made as provided in subparagraph (A)(ii) may be designated under this clause at the time of such initial designation without regard to such 30-day and continued ownership requirements.*

(*ii*) *CERTAIN DEBT OBLIGATIONS HAVING MATURITY OF LESS THAN 3 YEARS.*—*A debt obligation having a period remaining to maturity (on the date of acquisition) of at least 1 year but less than 3 years, which is acquired during the period beginning February 11, 1965, and ending on the date of the enactment of the Interest Equalization Tax Extension Act of 1965, may be designated as part of a fund of assets described in paragraph (2) on or before the 30th day after the date of such enactment (or at such later time as the Secretary or his delegate may by regulations prescribe) without regard to the 30-day and continued ownership requirements provided in clause (i).*

(C) ADDITIONAL DESIGNATIONS AFTER CLOSE OF YEAR.—If the adjusted basis of the assets held in a fund of assets described in paragraph (2) at the close of a calendar year after 1963 is less than 110 percent of the allowable reserve applicable to such fund at the close of such year, the insurance company may, to the extent permitted by subparagraph (E), designate additional stock or debt obligations (or both) which were acquired during such calendar year as part of such fund, so long as the company still owns such stock or debt obligations at the time of designation. Any designation under this subparagraph shall be made on or before January 31 following the close of the calendar year. Any tax paid by such company under section 4911 on the acquisition of the additional stock or debt obligations so designated shall constitute an overpayment of tax; and, under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made with respect to such overpayment.

(D) SUPPLEMENTAL REQUIRED DESIGNATIONS AFTER CLOSE OF YEAR.—If during any calendar year an insurance company acquires stock or debt obligations which are excluded from the tax imposed by section 4911 under an Executive order described in section 4917, and if at the close of the calendar year (and after the designation of additional assets under subparagraph (C)) the adjusted basis of all assets in a fund described in paragraph (2) is less than 110 percent of the allowable reserve applicable to such fund, such company shall, to the extent permitted by subparagraph (E), designate as part of such fund stock and debt obligations acquired by it during the calendar year and owned by it at the close of the calendar year, as follows: First, stock, and debt obligations having a period remaining to maturity (on the date of acquisition) of [3 years] *1 year* or more and payable in foreign currency, which were excluded from the tax imposed by section 4911 under such Executive order; second, if the company so elects, debt obligations of foreign obligors having a period remaining to maturity (on the date of acquisition) of less than [3 years] *1 year* and payable in foreign currency; and third, debt obligations having a period remaining to maturity (on the date of acquisition) of [3 years] *1 year* or more and payable solely in United States currency, which were excluded from the tax imposed by section 4911 under such Executive order. The designations under this subparagraph shall be made on or before January 31 following the close of the calendar year.

(E) LIMITATIONS.—

(i) IN GENERAL.—Stock or a debt obligation may be designated under subparagraph (B), (C), or (D) as part of a fund of assets described in paragraph (2) only to the extent that, immediately after such designation, the adjusted basis of all the assets held in such fund does not exceed 110 percent of the applicable allowable reserve (determined in accordance with paragraph (4)(B)(i)). To the extent any designation of stock or a debt obligation exceeds the amount permitted by the preceding sentence, such designation shall be ineffective and the provisions of this chapter shall apply with respect to the acquisition of such stock or debt obligation as if such designation had not been made.

(ii) SHORT-TERM OBLIGATIONS.—No designation may be made under subparagraph (B) or (C) of any debt obligation which has a period remaining to maturity (on the date of acquisition) of less than [3 years] *1 year.*

(4) DETERMINATION OF RESERVES.—

(A) GENERAL RULE.—For purposes of this subsection, the term "allowable reserve" means—

(i) in the case of a life insurance company (as defined in section 801(a)), the items taken into account under section 810(c) arising out of contracts of insurance and reinsurance (including annuity contracts) which relate to foreign risks and the proceeds of which are payable in a single foreign currency (other than the currency of a less developed country); and

(ii) in the case of an insurance company other than a life insurance company (as so defined), the amount of its unearned premiums (under section 832(b)(4)) and unpaid losses (under section 832(b)(5)) which relate to foreign risks insured or reinsured under contracts providing for payment in foreign currencies (other than currencies of less developed countries) and which are taken into account in computing taxable income under section 832 (for such purpose treating underwriting income of an insurance company subject to taxation under section 821 as taxable income under section 832).

(B) TIME OF DETERMINATION.—

(i) IN GENERAL.—For purposes of paragraph (3) (other than subparagraph (A) of such paragraph), the determination of an allowable reserve for any calendar year shall be made as of the close of such year.

(ii) INITIAL DESIGNATION.—For purposes of paragraph (3)(A), the determination of an allowable reserve shall be made as of July 18, 1963. If the insurance company so elects, the determination under this clause may be made by computing the mean of the allowable reserve at the beginning and at the close of the calendar year 1963.

(5) NONRECOGNITION OF ARTIFICIAL INCREASES IN ALLOWABLE RESERVE.—An insurance or reinsurance contract which is entered into or acquired by an insurance company for the principal purpose of artificially increasing the amount determined as an allowable reserve as provided in paragraph (4) shall not be recognized in computing whether an acquisition of stock or a debt obligation of a foreign issuer or obligor can be excluded under this subsection.

(f) ACQUISITIONS BY CERTAIN TAX-EXEMPT LABOR, FRATERNAL, AND SIMILAR ORGANIZATIONS HAVING FOREIGN BRANCHES OR CHAPTERS.—The tax imposed by section 4911 shall not apply to the acquisition of stock or debt obligations by a United States person which is described in section 501(c) and exempt from taxation under subtitle A, and which operates in a foreign country through a local organization or organizations, to the extent that—

(1) such acquisition results from the investment or reinvestment of contributions or membership fees paid in the currency of such country by individuals who are members of the local organization or organizations, and

(2) the stock or debt obligations acquired are held exclusively for the benefit of the members of any of such local organizations.

(g) SALE OR LIQUIDATION OF WHOLLY OWNED FOREIGN SUBSIDIARY *OR OF FOREIGN BRANCH*.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition by a United States person of a debt obligation of a foreign obligor if the debt obligation is acquired—

(A) in connection with the sale by such United States person (or by one or more includible corporations in an affiliated group, as defined in section 48(c)(3)(C), of which such United States person is a member) of all of the outstanding stock, except for qualifying shares, of a foreign corporation; **[**or**]**

(B) in connection with the liquidation by such United States person (or by one or more such includible corporations) of a foreign corporation all of the outstanding stock of which, except for qualifying shares, is owned by such United States person (or by one or more such includible corporations), but only if such debt obligation had been received by such foreign corporation as part or all of the purchase price in a sale of substantially all of its assets[.]*; or*

(C) as part or all of the purchase price in a sale by such United States person of substantially all of the assets of a branch of such United States person located outside the United States.

[(2) LIMITATION.—Paragraph (1) shall not apply to the acquisition of a debt obligation if any of the stock sold or surrendered in connection with its acquisition was originally acquired with the intent to sell or surrender.]

(2) LIMITATIONS.—Subparagraphs (A) and (B) of paragraph (1) shall not apply to the acquisition of a debt obligation if any of the stock sold or surrendered in connection with its acquisition was originally acquired with the intent to sell or surrender. Subparagraph (C) of paragraph (1) shall not apply to the acquisition of a debt obligation if any of the assets sold had been transferred to the branch for the purpose of sale (other than sale in the ordinary course of its trade or business).

[(h) CERTAIN DEBT OBLIGATIONS SECURED BY UNITED STATES MORTGAGES, ETC.—

[(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of a debt obligation of such foreign obligor which is secured by real property located in the United States, to the extent that—

[(A) the debt obligation is a part of the purchase price of such real property (or of such real property and related personal property); or

[(B) the debt obligation arises out of a loan made by such United States person to the foreign obligor the proceeds of which are concurrently used as part of the purchase price of such real property (or of such real property and related personal property).

[(2) LIMITATION.—Paragraph (1) shall apply to the acquisition of a debt obligation only if—

[(A) the owner of the property sold is a United States person; and

[(B) at least 25 percent of the purchase price of the property sold is, at the time of such sale, paid in United States currency to such United States person by the foreign obligor from funds not obtained from United States persons for the purpose of purchasing such property.

[(3) RELATED PERSONAL PROPERTY.—For purposes of paragraph (1), the term "related personal property" means personal property which is sold in connection with the sale of real property for use in the operation of such real property.]

(h) Certain Debt Obligations Secured by United States Mortgages, etc.—

(1) In general.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign obligor by a United States person of—

(A) a debt obligation of such foreign obligor which is secured by real property located in the United States, to the extent that such debt obligation—

(i) is a part of the purchase price of such real property (or of such real property and related personal property), or

(ii) arises out of a loan made by such United States person to the foreign obligor the proceeds of which are concurrently used as part of the purchase price of such real property (or of such real property and related personal property); or

(B) a debt obligation of such foreign obligor which is secured by real property located in the United States on which improvements are under construction by the obligor, if such debt obligation arises out of a loan made by such United States personal all the proceeds of which are used—

(i) to finance the construction of such improvements, or

(ii) to repay all or any part of a loan made to finance such construction, if the construction loan has qualified (or would have qualified) under paragraph (2)(B) and such repayment occurs within 5 years after such construction loan is made.

(2) Limitations.—Paragraph (1) shall apply to the acquisition of a debt obligation only if—

(A) in the case of the sale of property referred to in paragraph (1)(A)—

(i) the seller is a United States person, and

(ii) at least 25 percent of the purchase price of the property sold is, at the time of such sale, paid in United States currency to such United States person by the foreign obligor from funds not obtained from United States persons for the purpose of purchasing such property; or

(B) in the case of the construction of improvements referred to in paragraph (1)(B)—

(i) at the time any proceeds of the loan out of which such debt obligation arises are advanced, an amount equal to at least one-thrid of the amount of such advance, plus one-third of the amount of any previous advances of such proceeds, has been expended for such construction by the foreign obligor in United States currency from funds not obtained from United States persons for the purpose of financing such construction, and

(ii) not less than 85 percent of the cost of such construction attributable to property or services is attributable to property grown, extracted, manufactured, or produced in the United States, or to services performed by United States persons, or to both.

(3) Related personal property.—For purposes of paragraph (1)(A), the term "related personal property" means personal property which is sold in connection with the sale of real property for use in the operation of such real property.

(i) ACQUISITIONS OF STOCK OF FOREIGN ISSUERS INVESTING EXCLUSIVELY IN THE UNITED STATES.—

(1) IN GENERAL.—The tax imposed by section 4911 shall not apply to the acquisition from a foreign issuer of its stock by a United States person who is a bona fide resident of a foreign country within the meaning of section 911(a)(1), or who at the time of such acquisition is regularly performing personal services on a full-time basis in a foreign country, if at the close of each calendar quarter ending on or after June 30, 1963, preceding such acquisition, during any part of which such foreign issuer is in existence—

(A) the assets of such foreign issuer, exclusive of money or deposits with persons carrying on the banking business, consist solely of:

(i) stock or debt obligations of domestic corporations (other than a corporation which has elected under section 4920(a)(3)(B) to be treated as a foreign issuer or obligor for purposes of this chapter);

(ii) debt obligations of the United States, or of any State or possession of the United States, or any political subdivision of any State or possession; or

(iii) debt obligations of citizens or residents of the United States;

(B) money and deposits with persons carrying on the banking business (other than banks as defined in section 581) constitute less than 5 percent of the value of the assets of such foreign issuer; and

(C) less than 25 percent of each class of issued and outstanding stock of such foreign issuer is held of record by United States persons.

(2) AQUISITIONS THROUGH UNIT INVESTMENT TRUSTS.—For purposes of paragraph (1), an acquisition of an interest in a unit investment trust (within the meaning of section 4(2) of the Investment Company Act of 1940), or in an entity performing similar custodial functions, shall be deemed a direct acquisition from the foreign issuer of the stock held by such trust or entity with respect to such interest and shall not be treated as an acquisition of stock issued by such trust or entity.

(3) LIMITATIONS.—

(A) Paragraph (1) shall apply only to that portion of the total acquisitions of stock of foreign issuers described in such paragraph (determined in the order acquired) by a United States person in any one calendar year that does not exceed $5,000.

(B) If, after July 30, 1964, a United States person sells or otherwise disposes of stock the acquisition of which was excluded under paragraph (1) from the tax imposed by section 4911, such person shall not, with respect to such stock, be considered a United States person.

(j) LOSS OF ENTITLEMENT TO EXCLUSION IN CASE OF CERTAIN SUBSEQUENT TRANSFERS.—

(1) IN GENERAL.—

(A) Where an exclusion provided by paragraph (1)(B), (2), (3), (4), [or (5)] *(5), or (6)* of subsection (c), or the exclusion provided by subsection (d), has applied with respect to the acquisition of a debt obligation by any person, but such debt obligation is subsequently transferred by such person (before the termination date specified in section 4911(d)) to a United States person otherwise than—

(i) to any agency or wholly-owned instrumentality of the United States;

(ii) to a commercial bank acquiring the obligation in the ordinary course of its commercial banking business;

(iii) in the case of an exclusion provided by paragraph (1)(B), (2), or (3) of subsection (c), to any transferee where the extension of credit by such person and the acquisition of the debt obligation related thereto were reasonably necessary to accomplish the sale of property or services out of which the debt obligation arose, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which such person is engaged; or

(iv) in a transaction described in subsection (a) (1) or (2), or a transaction (other than a transfer by gift) described in subsection (a)(3).

then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such debt obligation) at the time of such subsequent transfer.

(B) Where the exclusion provided by paragraph (2) or (3) of subsection (c) has applied with respect to the acquisition of stock by any person, but such stock is subsequently transferred by such person (before the termination date specified in section 4911(d)) to a United States person otherwise than in a transaction described in subsection (a) (1) or (2), or a transaction (other than a transfer by gift) described in subsection (a)(3), then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such stock) at the time of such subsequent transfer.

(C) Where the exclusion provided by subsection (f) has applied with respect to the acquisition of stock or a debt obligation by any person, but such stock or debt obligation is subsequently transferred by such person (before the termination date specified in section 4911(d)) to any United States person, then liability for the tax imposed by section 4911 (in an amount determined under subparagraph (D) of this paragraph) shall be incurred by the transferor (with respect to such stock or debt obligation) at the time of such subsequent transfer.

(D) In any case where an exclusion provided by paragraph (1)(B), (2), (3), (4), [or (5)] *(5), or (6)* of subsection (c) or by subsection (d) or (f) has applied, but a subsequent transfer described in subparagraph (A), (B), or (C) of this paragraph occurs and liability for the tax imposed by section 4911 is incurred by the transferor as a result thereof, the amount of such tax shall be equal to the amount of tax for which the transferor would have been liable under such section upon his acquisition of the stock or debt obligation involved if such exclusion had not applied with respect to such acquisition.

(2) UNITED STATES PERSON TREATED AS FOREIGN PERSON ON DISPOSITION OF CERTAIN SECURITIES.—For purposes of this chapter, if, after December 10, 1963, a United States person sells or otherwise disposed of stock or a debt obligation which it—

(A) acquired to satisfy minimum requirements imposed by foreign law and with respect to which it claimed an exclusion under subsection (b) (3), or

(B) designated (or was required to designate) as part of a fund of assets under subsection (e),

such person shall not, with respect to that stock or debt obligation, be considered a United States person. *For purposes of this chapter, if, after July 18, 1963, a United States person sells or otherwise disposes of stock or a debt obligation to the acquisition of which the last sentence of subsection (b)(2) applied, such person shall not, with respect to that stock or debt obligation, be considered a United States person.*

* * * * * * *

SEC. 4916. EXCLUSION FOR INVESTMENTS IN LESS DEVELOPED COUNTRIES.

* * * * * * *

(c) LESS DEVELOPED COUNTRY CORPORATION DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "less developed country corporation" means a foreign corporation which for the applicable periods set forth in paragraph (3)—

(A) meets the requirements of section 955(c) (1) or (2); or

(B) derives 80 percent or more of its gross income, if any, from sources within less developed countries, or from deposits in the United States with persons carrying on the banking business, or both, and has assets 80 percent or more in value of which consists of—

(i) money, and deposits in the United States with persons carrying on the banking business,

(ii) stock or debt obligations of any other less developed country corporation,

(iii) debt obligations of a less developed country,

(iv) investments which are required because of restrictions imposed by a less developed country,

(v) debt obligations described in paragraph (3) of subsection (a) of this section, and

(vi) obligations of the United States.

In applying this paragraph the determination of whether a foreign country is a less developed country shall be made in accordance with subsection (b) of this section. *A foreign partnership, as defined in section 7701(a) (2) and (5), the assets and gross income of which, for the applicable periods set forth in paragraph (3), satisfy the requirements of subparagraph (A) or (B) of the first sentence of this paragraph, shall be treated as a less developed country corporation for purposes of this section.*

(2) SPECIAL RULES.—

(A) For purposes of subparagraphs (A) and (B) of paragraph (1), property described in section 956(b)(1) (regardless of when acquired), other than deposits with persons carrying on the banking business, and income derived from such property, shall not be taken into account.

(B) For purposes of subparagraph (A) of paragraph (1), obligations of any other less developed country corporation shall be taken into account under section 955(c)(1)(B)(iii) without regard to the period remaining to maturity at the time of their acquisition.

(C) For purposes of subparagraph (B) of paragraph (1), deposits outside the United States (other than deposits in a less developed country) with persons carrying on the banking business, and income from such deposits, shall not be taken into account.

(3) APPLICABLE PERIODS.—The determinations required by subparagraphs (A) and (B) of paragraph (1) shall be made (A) for the annual accounting period (if any) of the foreign corporation immediately preceding its accounting period in which the acquisition involved is made, (B) for the annual accounting period of the foreign corporation in which such acquisition is made, and (C) for the next succeeding annual accounting period of the foreign corporation.

(4) SPECIAL RULES FOR TREATMENT OF CORPORATIONS AS LESS DEVELOPED COUNTRY CORPORATIONS.—A foreign corporation shall be treated as satisfying the definition in paragraph (1) with respect to the acquisition by a United States person of stock or a debt obligation if—

(A) before the acquisition occurs (or, in the case of an acquisition occurring before or within 60 days after the date of the enactment of this chapter, pursuant to application made within such period following such date as may be prescribed by the Secretary or his delegate in regulations), it is established to the satisfaction of the Secretary or his delegate that such foreign corporation—

(i) has met the applicable requirements of paragraph (1) for the period (if any) referred to in paragraph (3)(A), and

(ii) may reasonably be expected to satisfy such requirements for the periods referred to in paragraphs (3) (B) and (C); or

(B) in the case of an acquisition occurring on or before December 10, 1963, the applicable requirements of paragraph (1) are met for the annual accounting period of the foreign corporation immediately preceding its accounting period in which the acquisition occurred.

(5) TREATMENT OF CORPORATIONS AS LESS DEVELOPED COUNTRY CORPORATIONS IN OTHER CASES.—A foreign corporation may also be treated as satisfying the definition in paragraph (1) with respect to the acquisition by a United States person of stock or a debt obligation (but subject to possible subsequent liability for tax under subsection (d)(1)), if—

(A) such corporation has met the applicable requirements of paragraph (1) for the period (if any) referred to in paragraph (3)(A), and

(B) such person reasonably believes that such corporation will satisfy such requirements for the periods referred to in paragraphs (3) (B) and (C).

* * * * * * *

SEC. 4917. EXCLUSION FOR ORIGINAL OR NEW ISSUES WHERE REQUIRED FOR INTERNATIONAL MONETARY STABILITY.

(a) IN GENERAL.—If the President of the United States shall at any time determine that the application of the tax imposed by section 4911 will have such consequences for a foreign country as to imperil or threaten to imperil the stability of the international monetary system, he may by Executive order specify that such tax shall not apply to the acquisition by a United States person of stock or a debt obligation of the government of such foreign country or a political subdivision thereof, any agency or instrumentality of any such government, any corporation, partnership, or trust (other than a company registered under the Investment Company Act of 1940) organized under the laws of such country or any such subdivision, or any individual resident therein, to the extent that such stock or debt obligation is acquired as all or part of an original or new issue as to which there is filed such notice of acquisition as the Secretary or his delegate may prescribe by regulations. In the case of acquisitions made during the period beginning July 19, 1963, and ending with the date of the enactment of this chapter, the notice of acquisition may be filed within such period following the date of such enactment as the Secretary or his delegate may prescribe by regulations. *In the case of acquisitions of debt obligations having a period remaining to maturity of 1 year or more but less than 3 years made during the period beginning February 11, 1965, and ending with the date of the enactment of the Interest Equalization Tax Extension Act of 1965, the notice of acquisition may be filed within such period following the date of such enactment as the Secretary or his delegate may prescribe by regulations.*

(b) APPLICABILITY OF EXECUTIVE ORDER.—An Executive order described in subsection (a) may be applicable to all such original or new issues or to any aggregate amount of classification thereof which shall be stated in such order and shall apply to acquisitions occurring during such period of time as shall be stated therein. If the order is applicable to a limited aggregate amount of such issues it shall apply (under regulations prescribed by the Secretary or his delegate) to those acquisitions as to which notice of acquisition was first filed, provided that in the case of any such notice the acquisition described in the notice is made before or within 90 days after the date of filing or within such longer period after such date as may be specified in such order.

(c) ORIGINAL OR NEW ISSUE.—For purposes of this section—

(1) stock shall be treated as part of an original or new issue only when it is acquired from the issuer by the United States person claiming the exclusion; and

(2) a debt obligation shall be treated as part of an original or new issue only if acquired not later than 90 days after the date on which interest begins to accrue on such obligation, except that a debt obligation secured by a lien on improvements on real property which are under construction or are to be constructed at the time such obligation is issued (or if such obligation

is one of a series, at the time the first obligation in such series is issued) shall be treated as part of an original or new issue if—

(A) such obligation is acquired not later than 90 days after the date on which interest begins to accrue on the total amount of such obligation (or if such obligation is one of a series, on the last issued of the obligations in such series); and

(B) the United States person claiming the exclusion became committed to the acquisition of such obligation not later than 90 days after the date on which interest began to accrue on any part of such obligation (or, if such obligation is one of a series, on the first obligation issued in such series).

(d) Reduction of Exclusion in Case of Late Filing of Certain Notices of Acquisition.—If, with respect to an acquisition after the date of the enactment of the Interest Equalization Tax Extension Act of 1965 of stock or a debt obligation which is all or part of an original or new issue to which an Executive order issued under subsection (a) is applicable (other than an Executive order which is applicable to a limited aggregate amount of such issues), the notice of acquisition required by subsection (a) is not filed on or before the last day (including extensions of time) specified in the regulations prescribed by the Secretary or his delegate under such subsection, the exclusion provided by such Executive order shall not apply to 5 per centum of such acquisition for each 30-day period or fraction thereof after such last day during which such failure continues, except that in no event shall such exclusion be reduced under this subsection by more than 25 per centum of such acquisition.

(e) Fulfillment of Treaty Obligations.—In determining whether to issue an Executive order under subsection (a) with respect to a foreign country, and in determining whether to revoke or modify an Executive order issued under subsection (a) with respect to a foreign country (whether issued before or after the enactment of this subsection), the President may take into account whether such foreign country is according privileges to United States persons in conformity with treaties of friendship, commerce, and navigation between the United States and such foreign country, particularly privileges relating to investments in such foreign country.

* * * * * * *

SEC. 4919. SALES BY UNDERWRITERS AND DEALERS TO FOREIGN PERSONS.

(a) Credit or Refund.—The tax paid under section 4911 on the acquisition of stock or debt obligations of a foreign issuer or obligor shall constitute an overpayment of tax to the extent that such stock or debt obligations—

(1) Private placements and public offerings.—Are acquired by an underwriter in connection with a private placement or a public offering by a foreign issuer or obligor (or a person or persons directly or indirectly controlling, controlled by, or under common control with such issuer or obligor) and are sold as part of such private placement or public offering by the underwriter (including sales by other underwriters who are United States persons participating in the placement or distribution of the stock or debt obligations acquired by the underwriter) to persons other than United States persons;

(2) CERTAIN DEBT OBLIGATIONS.—Consist of debt obligations—

(A) acquired by a dealer in the ordinary course of his business and sold by him, within 90 days after their purchase, to—

(i) persons other than United States persons, or

(ii) another dealer who resells them on the same or the next business day to persons other than United States persons; or

(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him, within 90 days before their purchase, to—

(i) persons other than United States persons, or

(ii) another dealer who resold them on the same or the next business day to persons other than United States persons; or

[(3) CERTAIN STOCK.—Consist of stock—

[(A) acquired by a dealer in the ordinary course of his business and sold by him on the day of purchase or on either of the two succeeding business days to persons other than United States persons; or

[(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him on the day of purchase or on either of the two preceding business days to persons other than United States persons.]

(3) CERTAIN STOCK.—Consist of stock—

(A) acquired by a dealer in the ordinary course of his business and sold by him on the day of purchase or on either of the two succeeding business days to—

(i) persons other than United States persons, or

(ii) another dealer who resells it on the same or the next business day to persons other than United States persons; or

(B) acquired by a dealer in the ordinary course of his business to cover short sales made by him on the day of purchase or on either of the two preceding business days to—

(i) persons other than United States persons, or

(ii) another dealer who resold it on the same or the next business day to persons other than United States persons.

Under regulations prescribed by the Secretary or his delegate, credit or refund (without interest) shall be allowed or made with respect to such overpayment. For purposes of paragraphs (2) and (3) of this subsection and for purposes of paragraph (3) of subsection (b), the day of purchase or sale of any stock or debt obligation is the day on which an order to purchase or to sell, as the case may be, is executed.

(b) EVIDENCE TO SUPPORT CREDIT OR REFUND.—

(1) IN GENERAL.—Credit or refund shall be allowed to an underwriter or dealer under subsection (a) with respect to any stock or debt obligation sold by him only if the underwriter or dealer—

(A) files with the return required by section 6011(d) on which credit is claimed, or with the claim for refund, such information as the Secretary or his delegate may prescribe by regulations and

(B) establishes that such stock or debt obligation was sold to a person other than a United States person.

In any case where two or more underwriters from a group for the purpose of purchasing and distributing (through resale) stock or debt obligations of a single foreign issuer or obligor, any one of such underwriters may, to the extent provided by regulations prescribed by the Secretary or his delegate, satisfy the requirements of this paragraph on behalf of all such underwriters.

(2) CERTAIN SALES BY UNDERWRITERS.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(1) with respect to stock or a debt obligation acquired by an underwriter and not sold by him directly to a person other than a United States person, a certificate of sale to a foreign person (setting forth such information, and filed in such manner, as the Secretary or his delegate may prescribe by regulations), executed by the underwriter who made such sale, shall be conclusive proof that such stock or debt obligation was sold to a person other than a United States person, unless the underwriter relying upon the certificate has actual knowledge that the certificate is false in any material respect.

(3) [SALES OF DEBT OBLIGATIONS BY DEALERS] *CERTAIN SALES BY DEALERS.*—

(A) SALES ON NATIONAL SECURITIES EXCHANGES.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(2), the sale by a dealer of a debt obligation on a national securities exchange registered with the Securities and Exchange Commission subject to a special contract (and not in the regular market) shall be conclusive proof that such debt obligation was sold to a person other than a United States person, if such exchange has in effect at the time of the sale rules providing that—

(i) a member or member organization of such exchange selling a debt obligation as a dealer, or effecting the sale as broker of a debt obligation on behalf of a dealer, on such exchange subject to a special contract (and not in the regular market) shall furnish to the member or member organization purchasing such debt obligation as a dealer, or effecting the purchase as broker of such debt obligation on behalf of a dealer, a written confirmation or comparison stating that such sale is being made as a dealer, or on behalf of a dealer; and

(ii) if the purchaser of such debt obligation is a dealer (whether or not a member or member organization of such exchange), the terms of the contract applicable to such sale shall require the purchasing dealer to undertake to resell such debt obligation on the day of purchase or the next business day to a person other than a United States person.

A dealer who acquires a debt obligation in a transaction in which a written confirmation or comparison described in clause (i) is furnished shall not be entitled to a credit or refund under subsection (a)(2) with respect to his acquisition of such debt obligation unless he establishes that such debt obligation was sold by him on the day on which it was purchased or the next business day to a person other than a United States person.

(B) OVER-THE-COUNTER SALES.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(2) *or (a)(3)* with respect to a [debt obligation sold in a transaction] *sale* not on a national securities exchange, a written confirmation furnished by a member or member organization of a national securities association registered with the Securities and Exchange Commission stating that such member or member organization—

(i) effected the purchase as broker of *stock or* a debt obligation on behalf of a person other than a United States person, or

(ii) purchased *stock or* a debt obligation which he resold on the day of purchase or the next business day to a person other than a United States person,

shall be conclusive proof that such *stock or* debt obligation was sold to a person other than a United States person (unless the dealer relying upon the confirmation has actual knowledge that the confirmation is false in any material respect), if such association has in effect at the time of the purchase rules providing that a member or member organization who effects a purchase of, or purchases, a *stock or* debt obligation from a dealer who notifies such member or member organization that such *stock or* debt obligation is being sold by such dealer and that such dealer intends to claim a credit or refund under subsection (a)(2) *or (a)(3)*, shall furnish to such dealer a written confirmation stating that the purchase of such *stock or* debt obligation was (or was not) effected by such member or member organization on behalf of a person other than a United States person, or that such *stock or* debt obligation was (or was not) sold by such member or member organization on the day of purchase or the next business day to a person other than a United States person.

(4) SALES OF STOCK BY DEALERS.—For purposes of paragraph (1)(B), in the case of a claim for credit or refund under subsection (a)(3), the sale by a dealer of stock on a national securities exchange registered with the Securities and Exchange Commission subject to a special contract (and not in the regular market) shall be conclusive proof that such stock was sold to a person other than a United States person, unless such dealer has actual knowledge at the time of such sale that the purchaser of such stock is a dealer (whether or not a member or member organization of such exchange).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "underwriter" means any person who has purchased stock or debt obligations from the issuer or obligor (or from a person controlling, controlled by, or under common control with such issuer or obligor), or from another underwriter, with a view to the distribution through resale of such stock or debt obligations; and

(2) the term "dealer" means any person who is a member of a national securities association registered with the Securities and Exchange Commission and who is regularly engaged, as a mer-

chant, in purchasing stock or debt obligations and selling them to customers with a view to the gains and profits which may be derived therefrom.

SEC. 4920. DEFINITIONS AND SPECIAL RULES.

(a) IN GENERAL.—For purposes of this chapter—

(1) DEBT OBLIGATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "debt obligation" means—

(i) any indebtedness, whether or not represented by a bond, debenture, note, certificate, or other writing, whether or not secured by a mortgage, and whether or not bearing interest; and

(ii) any interest in, or any option or similar right to acquire, a debt obligation referred to in this subparagraph, whether or not such interest, option, or right is in writing.

(B) EXCEPTIONS.—The term "debt obligation" shall not include any obligation which—

(i) is convertible by its terms into stock of the obligor, if it is so convertible only within a period of 5 years or less from the date on which interest begins to accrue thereon; or

(ii) arises out of the divorce, separate maintenance, or support of an individual who is a United States person.

(2) STOCK.—The term "stock" means—

(A) any stock, share, or other capital interest in a corporation;

(B) any interest of a partner in a partnership;

(C) any interest in an investment trust;

(D) any indebtedness which is convertible by its terms into stock of the obligor, if it is so convertible only within a period of 5 years or less from the date on which interest begins to accrue thereon; and

(E) any interest in, or option or similar right to acquire, any stock described in this paragraph.

(3) FOREIGN ISSUER OR OBLIGOR.—The terms "foreign issuer", "foreign obligor", and "foreign issuer or obligor" mean any issuer of stock or obligor of a debt obligation, as the case may be, which is—

(A)(i) an international organization of which the United States is not a member,

(ii) the government of a foreign country or any political subdivision thereof, or an agency or instrumentality of such a government,

(iii) a corporation, partnership, or estate or trust which is not a United States person as defined in paragraph (4); or

(iv) a nonresident alien individual;

(B) a domestic corporation which, as of July 18, 1963, was a management company registered under the Investment Company Act of 1940 if—

(i) at least 80 percent of the value of the stock and debt obligations owned by such corporation on July 18, 1963, and at least 80 percent of the value of the stock and debt obligations owned by such corporation at the end of every calendar quarter thereafter (through the quarter preceding the quarter in which the acquisition involved is made), consists of stock or debt obligations of foreign issuers or obligors and other debt obligations having an original maturity of 90 days or less;

(ii) such corporation elects to be treated as a foreign issuer or obligor for purposes of this chapter; and

(iii) such corporation does not materially increase its assets during the period from July 18, 1963, to the date on which such election is made through borrowing or through issuance or sale of its stock (other than stock issued or sold on or before September 16, 1963, as part of a public offering with respect to which a registration statement was first filed with the Securities and Exchange Commission on July 18, 1963, or within 90 days before that date).

The election under clause (ii) shall be made on or before the 60th day after the date of the enactment of this chapter under regulations prescribed by the Secretary or his delegate. Such election shall be effective as of the date specified by the corporation, but not later than the date on which such election is made, and shall remain in effect until revoked. If, at the close of any succeeding calendar quarter, the company ceases to meet the requirement of clause (i), the election shall thereupon (with respect to quarters after such calendar quarter) be deemed revoked. When an election is revoked no further election may be made. If the assets of a foreign corporation are acquired by a domestic corporation in a reorganization described in subparagraph (D) or (F) of section 368(a)(1), the two corporations shall be considered a single domestic corporation for purposes of this subparagraph.

(4) UNITED STATES PERSON.—The term "United States person" means—

(A) a citizen or resident of the United States,

(B) a domestic partnership,

(C) a domestic corporation, other than a corporation described in paragaraph (3)(B),

(D) an agency or wholly-owned instrumentality of the United States,

(E) a State or political subdivision, or any agency or instrumentality thereof, and

(F) any estate or trust—

(i) the income of which from sources without the United States is includible in gross income under subtitle A (or would be so includible if not exempt from tax under section 501(a), section 521(a), or section 584(b), or

(ii) which is situated in the Commonwealth of Puerto Rico or a possession of the United States.

(5) DOMESTIC CORPORATION; DOMESTIC PARTNERSHIP.—The terms "domestic corporation" and "domestic partnership" mean, respectively, a corporation or partnership created or organized in the United States or under the laws of the United States or of any State, except that such terms do not include a branch office

of such a corporation or partnership located outside the United States if—

(A) such corporation or partnership (without regard to the activities of such office) is a dealer (as defined in section 4919(c)(2));

(B) such office (which is operated by employees or partners of such corporation or partnership) was located outside the United States on July 18, 1963, and was regularly engaged, as a merchant, in purchasing and selling stock or debt obligations of foreign issuers or obligors with a view to the gains and profits which may be derived therefrom, for a period of not less than 12 consecutive calendar months prior to July 18, 1963;

(C) all acquisitions by such branch office of stock of foreign issuers and debt obligations of foreign obligors are made in the ordinary course of its business as such a merchant or as an underwriter (as defined in section 4919(c)(1));

(D) such office maintains separate books and records resaonably reflecting the assets and liabilities properly attributable to such office; and

(E) there is in effect an election that such branch office be treated as a foreign corporation or foreign partnership for purposes of this chapter.

The election under subparagraph (E) shall be made by such corporation or partnership on or before the 60th day after the date of the enactment of this chapter under regulations prescribed by the Secretary or his delegate. A separate election may be made with respect to each branch office of such corporation or partnership. Such election shall be effective as of July 18, 1963, and shall remain in effect until revoked in accordance with such regulations. If, at any time, a branch office ceases to meet the requirements of subparagraph (A), (C), or (D), the election with respect to such office shall thereupon be deemed revoked. When an election is revoked, a new election under subparagraph (E) may be made subject to such conditions and limitations as may be prescribed by the Secretary or his delegate. *A corporation or partnership making an election under this paragraph or paragraph (5A) with respect to a branch office located outside the United States shall not, at any time, execute a certificate of American ownership (within the meaning of section 4918) either with respect to stock or a debt obligation of a foreign issuer or obligor held by such branch office at the time the election is made with respect to such branch office or with respect to stock or a debt obligation of a foreign issuer or obligor acquired by such branch office while the election with respect to such branch office is in effect.*

(5A) CERTAIN COMMERCIAL FINANCING BRANCHES NOT TREATED AS DOMESTIC CORPORATIONS.—The term "domestic corporation" does not include a branch office of such a corporation located outside the United States if—

(A) such corporation is primarily engaged in the trade or business of acquiring debt obligations (i) arising out of the sale of tangible personal property produced, manufactured, or assembled by one or more includible corporations in an affiliated group (determined under section 48(c)(3)(C) except that clause (i) of such section shall not apply) of which such acquiring cor-

portation is a member and (ii) arising out of the sale of tangible personal property received as part or all of the consideration in sales of tangible personal property described in clause (i);

(B) such office is primarily engaged in the trade or business of acquiring debt obligations described in subparagraph (A) which are repayable exclusively in one or more currencies other than United States currency;

(C) such office was located outside the United States on February 10, 1965, and was regularly engaged in the trade or business of acquiring debt obligations described in subparagraph (B) for a period of not less than 12 consecutive months before February 10, 1965;

(D) such office maintains separate books and records reasonably reflecting the assets and liabilities properly attributable to such office; and

(E) there is in effect an election that such branch office be treated as a foreign corporation for purposes of this chapter.

For purposes of this paragraph, a corporation or a branch office shall be treated as primarily engaged in the trade or business described in subparagraph (A) during the taxable year if at least 90 percent of the face amount of the debt obligations acquired by such corporation or branch office during such taxable year consists of debt obligations described in subparagraph (A) and if throughout such taxable year such corporation or branch office is exclusively engaged in the trade or business of acquiring debt obligations (whether or not described in subparagraph (A)) and servicing debt obligations arising out of sales of tangible personal property described in subparagraph (A). The election under this paragraph shall be made by such corporation in accordance with regulations prescribed by the Secretary or his delegate. A separate election may be made with respect to each branch office of such corporation except that, for purposes of this paragraph, all branch offices of such corporation located in a country shall be treated as a single branch office. Such election shall be effective as of February 10, 1965, and shall remain in effect until revoked in accordance with such regulations. If, at any time, such corporation ceases to meet the requirements of subparagraph (A), all elections made by such corporation under this paragraph shall be deemed revoked. If, at any time, a branch office (within the meaning of this paragraph) ceases to meet the requirements of subparagraph (B) or (D), the election with respect to such office shall thereupon be deemed revoked. When an election is revoked, a new election under subparagraph (E) may be made subject to such conditions and limitations as may be prescribed by the Secretary or his delegate.

(6) UNITED STATES; STATE.—The term "United States" when used in a geographical sense includes the States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(7) PERIOD REMAINING TO MATURITY.—

(A) IN GENERAL.—Subject to the modifications set forth in subparagraph (B), the period remaining to maturity of a debt obligation shall be that period beginning on the date of its acquisition and ending on the fixed or determinable date when, according to its terms, the payment of principal becomes due.

(B) MODIFICATIONS.—The period remaining to maturity—

(i) of any interest in, or any option or similar right to acquire, any debt obligation shall be the period remaining to maturity of that debt obligation at the time of the acquisition of such interest, option, or right;

(ii) of any debt obligation which is renewable without affirmative action by the obligee, or of any interest in or option or similar right to acquire such a debt obligation, shall end on the last day of the final renewal period;

(iii) of any debt obligation which has no fixed or determinable date when the payment of principal becomes due shall be considered to be 28½ years;

(iv) of any debt obligation which is payable on demand (including any bank deposit) shall be considered to be less than [3 years] *1 year*; and

(v) of a debt obligation which is subject to retirement before its maturity through operation of a mandatory sinking fund shall be determined under regulations prescribed by the Secretary or his delegate.

[(8) FOREIGN STOCK ISSUES TREATED AS DOMESTIC.—

[(A) IN GENERAL.—A foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock if, as of the latest record date before July 19, 1963, more than 65 percent of such class of stock was held of record by United States persons.

[(B) STOCK TRADED ON NATIONAL SECURITIES EXCHANGES.—A foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock which is traded on one or more national securities exchanges registered with the Securities and Exchange Commission, if the trading on such national securities exchanges constituted the principal market for such class of stock during the calendar year 1962 and if, as of the latest record date before July 19, 1963, more than 50 percent of such class of stock was held of record by United States persons.]

(b) FOREIGN STOCK ISSUES TREATED AS DOMESTIC.—

(1) IN GENERAL.—For purposes of this chapter, a foreign corporation (other than a company registered under the Investment Company Act of 1940) shall not be considered a foreign issuer with respect to any class of its stock if—

(A) as of the corporation's latest record date before July 19, 1963, more than 65 percent of such class of stock was held of record by United States persons, or

(B) the class of stock had its principal market during the calendar year 1962 on one or more national securities exchanges registered with the Securities and Exchange Commission, and, as of the corporation's latest record date before July 19, 1963, more than 50 percent of such class of stock was held of record by United States persons.

(2) Class of stock defined.—For purposes of this subsection, the term "class of stock" means all shares of stock of a corporation issued and outstanding as of the corporation's latest record date before July 19, 1963, which are identical with respect to the rights and interest such shares represent in the control, profits, and assets of the corporation. Such term also includes additional shares possessing rights and interests identical with the rights and interests of shares described in the preceding sentence if such additional shares shall have been—

(A) issued on or before November 10, 1964;

(B) issued after November 10, 1964, pursuant to a written commitment made by such corporation on or before such date;

(C) issued after November 10, 1964, to a shareholder with respect to or in exchange solely for shares described in this paragraph; or

(D) issued after November 10, 1964, and if—

(i) such corporation was actively engaged in a trade or business on July 19, 1963;

(ii) shares of such class were held of record by more than 250 shareholders on the corporation's latest record date before July 19, 1963;

(iii) the percentage of shares of such class held of record by United States persons as of the corporation's latest record date before the issuance of such additional shares is not less than the percentage required to be held by United States persons as of the latest record date before July 19, 1963, in order for the class of stock to qualify under paragraph (1);

(iv) all such additional shares are shares which, if acquired by United States persons at the time of original issuance, would have been excluded from the tax imposed by section 4911 by reason of section 4914(a)(6), 4916, or 4917, or are shares exchanged in a reorganization described in section 368(a)(1)(B) for shares of a domestic corporation which was engaged in the active conduct of a trade or business (other than as a dealer in securities) immediately before the date of such exchange; and

(v) at least 15 days before the date such additional shares are issued (or, in the case of an issue occurring on or before the 60th day after the date of the enactment of this sentence, within such period as may be prescribed by the Secretary or his delegate by regulations), the issuing corporation files (in accordance with regulations prescribed by the Secretary or his delegate) a notice of intent to issue such shares.

For purposes of subparagraph (D), the issuance of an option or similar right to acquire stock, or of any debt obligation convertible into stock, shall be treated as the issuance of the stock which may be obtained on the exercise of such option or similar right or the conversion of such debt obligation.

[(b)] (*c*) SPECIAL RULE FOR FOREIGN UNDERWRITERS.—A partnership or corporation which is not a United States person and which participates, as an underwriter in an underwriting group that includes one or more United States persons, in a public offering of stock or debt obligations of a foreign issuer or obligor shall, if such partnership or corporation so elects and subject to such terms and conditions as the Secretary or his delegate may prescribe by regulations, be treated as a United States person for purposes of this chapter with respect to its participation in such public offering.

[(c)] (*d*) CROSS REFERENCE.—

For definition of "acquisition", see section 4912.

Subchapter B—Acquisitions by Commercial Banks

Sec. 4931. Commercial bank loans.

SEC. 4931. COMMERCIAL BANK LOANS.

(a) STANDBY AUTHORITY.—The provisions of this section shall apply only if the President of the United States—

(1) determines that the acquisition of debt obligations of foreign obligors by commercial banks in making loans in the ordinary course of the commercial banking business has materially impaired the effectiveness of the tax imposed by section 4911, because such acquisitions have, directly or indirectly, replaced acquisitions by United States persons, other than commercial banks, of debt obligations of foreign obligors which are subject to the tax imposed by such section, and

(2) specifies by Executive order that the provisions of this section shall apply to acquisitions by commercial banks of debt obligations of foreign obligors, to the extent specified in such order.

Such Executive order shall be effective, to the extent specified therein, with respect to acquisitions made during the period beginning on the day after the date on which the order is issued and ending on the date set forth in section 4911(d). Such Executive order may be modified from time to time (by Executive order), except that no such modification shall (A) have the effect of excluding from the application of subsection (b) [or (c)] a significant class of acquisitions to which such subsection applied under such Executive order or any modification thereof, or (B) subject any acquisition made on or before the date of issuance of such modification to the application of subsection (b) [or (c)].

(b) DEBT OBLIGATIONS WITH MATURITY OF [3 YEARS] *1 YEAR* OR MORE, ETC.—During the period in which an Executive order issued under subsection (a) is effective, and to the extent specified in such order (and any modifications thereof), sections 4914(b)(2)(A), 4914(j)(1)(A)(ii), and 4915(c)(2)(A) shall not apply.

[(c) DEBT OBLIGATIONS WITH MATURITY FROM 1 TO 3 YEARS.—During the period in which an Executive order issued under subsection (a) is effective, and to the extent specified in such order (and any modifications thereof, there is hereby imposed, on each acquisition by a United States person (as defined in section 4920(a)(4) which is a commercial bank of a debt obligation of a foreign obligor (if such obligation has a period remaining to maturity of 1 year or more and less than 3 years), a tax equal to a percentage of the actual value of the debt obligation measured by the period remaining to its maturity and determined in accordance with the following table:

If the period remaining to maturity is:	The tax, as a percentage of actual value, is:
At least 1 year, but less than 1¼ years	1.05 percent
At least 1¼ years, but less than 1½ years	1.30 percent
At least 1½ years, but less than 1¾ years	1.50 percent
At least 1¾ years, but less than 2¼ years	1.85 percent
At least 2¼ years, but less than 2¾ years	2.30 percent
At least 2¾ years, but less than 3 years	2.75 percent

For purposes of this title, the tax imposed under this subsection shall be treated as imposed under section 4911[, except that, for such purposes, the provisions of section 4918 shall not apply].][1]

[(d)] *(c)* EXCLUSIONS.—

(1) EXPORT LOANS.—The provisions of subsection (b)[, and the tax imposed under subsection (c),] shall not apply with respect to the acquisition by a commercial bank of a debt obligation arising out of the sale *or lease* of personal property or services (or both) if—

(A) not less than 85 percent of the amount of the loan, *amount paid, or other consideration given to acquire such debt obligation* is atrributable to the sale *or lease* of property manufactured, produced, grown, extracted, created, or developed in the United States, or to the performance of services by United States persons, or to both, and

(B) the extension of credit and the acquisition of the debt obligation related thereto are reasonably necessary to accomplish the sale *or lease* of property or services out of which the debt obligation arises, and the terms of the debt obligation are not unreasonable in light of credit practices in the business in which the United States person selling *or leasing* such property or services is engaged.

(2) FOREIGN CURRENCY LOANS BY FOREIGN BRANCHES.—The provisions of subsection (b)[, and the tax imposed under subsection (c),] shall not apply to the acquisition by a commercial bank of a debt obligation of a foreign obligor payable in the currency of a foreign country if, under regulations prescribed by the Secretary or his delegate—

(A) such bank establishes and maintains, for each of its branches located outside the United States, a fund of assets with respect to deposits payable in foreign currency to customers [(other than banks)] *(other than United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member)* of such branch, and

(B) such debt obligation is designated, to the extent permitted by this paragraph, as part of a fund of assets described in subparagraph (A) (but only after debt obligations of foreign obligors payable in foreign currency having a period remaining to maturity of less than one year held by such bank have been designated as part of such a fund).

[1] Section 4(n)(2) of the bill amends the last sentence of section 4931(c), effective with respect to acquisitions made after February 10, 1965. Section 3(c)(1)(A) of the bill strikes out section 4931(c), effective at such time as may be provided in a modification of Executive Order 11198 made after the enactment of the bill.

A debt obligation may be designated as part of a fund of assets described in subparagraph (A) only to the extent that, immediately after such designation, the adjusted basis of all the assets held in such fund does not exceed 110 percent of the deposits payable in foreign currency to customers [(other than banks)] (*other than United States persons engaged in the commercial banking business and members of an affiliated group (determined under section 48(c)(3)(C)) of which such a United States person is a member*) of the branch with respect to which such fund is maintained.

(3) PREEXISTING COMMITMENTS.—The provisions of subsection (b)[, and the tax imposed under subsection (c),] shall not apply to the acquisition by a commercial bank of a debt obligation of a foreign obligor—

(A) made pursuant to an obligation to acquire which on August 4, 1964—

(i) was unconditional, or

(ii) was subject only to conditions contained in a formal contract under which partial performance had occurred; or

(B) as to which on or before August 4, 1964, the acquiring commercial bank (or, in a case where 2 or more commercial banks are making acquisitions as part of a single transaction, a majority in interest of such banks) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such bank (or banks) in similar transactions and had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition.

[(e)] (*d*) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations (not inconsistent with the provisions of this section or of an Executive order issued under subsection (a)) as may be necessary to carry out the provisions of this section.

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INTEREST EQUALIZATION TAX ACT

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SEC. 2. INTEREST EQUALIZATION TAX.

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(c) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided by paragraphs (2), (3), (4), (5), (6), and (7), the amendments made by this section shall apply with respect to acquisitions of stock and debt obligations made after July 18, 1963.

(2) PREEXISTING COMMITMENTS.—Such amendments shall not apply to an acquisition—

(A) made pursuant to an obligation to acquire which on July 18, 1963—

(i) was unconditional, or

(ii) was subject only to conditions contained in a formal contract under which partial performance had occurred;

[(B) as to which on or before July 18, 1963, the acquiring United States person (or, in a case where 2 or more United States persons are making acquisitions as part of a single transaction, a majority in interest of such persons) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such person (or persons) in similar transactions and had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a commitment letter, memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions;]

(B) as to which on or before July 18, 1963, the acquiring United States person (or, in a case where 2 or more United States persons are making acquisitions as part of a single transaction, a majority in interest of such persons) had taken every action to signify approval of the acquisition under the procedures ordinarily employed by such person (or persons) in similar transactions, subject only to the execution of formal documents evidencing the acquisition and to customary closing conditions, and the acquiring United States person (or persons)—

(i) had sent or deposited for delivery to the foreign person from whom the acquisition was made written evidence of such approval in the form of a commitment letter, memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the foreign person from whom the acquisition was made which set forth, the principal terms of such acquisition, or

(ii) had received from the foreign person from whom the acquisition was made a memorandum of terms, draft purchase contract, or other document setting forth, or referring to a document sent by the acquiring United States person (or persons) which set forth, the principal terms of such acquisition;

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